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JACK ZASLOFF, called as a witness on behalf of the Government, having been duly sworn, testified as follows:

Direct examination by Mr. Rice:

Q. You are an accountant, are you not, Mr. Zasloff? A. I am.

Q. Employed by whom? A. Lewis P. Gallinson & Company.

Q. On June 1, 1934, did you go to the A. L. A. Schechter Poultry Market, at 858 East 52nd 1496
Street, Brooklyn? A. I did.

Mr. Heller: Let the question be where he went, instead of suggesting the place and name and everything else.

The Court: That part is all right.

Q. What did you do at the Schechter Market on that day? A. I came to examine their books.

Q. On behalf of whom? A. The Code Authority.

Q. The Live Poultry Code Authority? A. Code Authority, yes.

Q. Who did you talk to at Schechter's Market? 1497
A. I spoke to a man who I later found out, I believe, to be Aaron Schechter.

The Court: Is he here?

The Witness: He is.

Q. Can you point out the man? A. The thin fellow there at the corner of the table, the next one. That is right.

Q. Identifying the defendant, Aaron Schechter? A. Yes.

Gentleman Indicated: My name is Alex Schechter.

Mr. Heller: Identifies Alex Schechter.

1498 Q. Will you look over these defendants carefully and tell us whether it was Alex Schechter?

Mr. Heller: He has already done that, your Honor; he has pointed him out.

Mr. Rice: I want to make perfectly sure.

The Witness: That was the man.

Q. You talked to Alex Schechter? A. Yes.

Mr. Heller: He said Aaron.

1499 The Court: All right. Whatever name, is that the man you talked to, by whatever name he is known?

The Witness: It was he.

The Court: What is his name?

Mr. Heller: Alexander.

The Court: All right.

Q. Alexander Schechter. Did he tell you what his name was? A. He did not.

Q. Did he tell you what his name was? A. He did not.

1500 Mr. Heller: May I point out who Aaron Schechter is?

The Court: Oh, surely, if you want to.

(Aaron Schechter stands in the court room.)

Q. You talked to Alec Schechter, the fourth man? A. That is right; that is right.

Q. Tell us your conversation with him? A. I——

Mr. Heller: This is not binding on the other defendants, the conversation he had with him at this time.

The Court: I do not know; it isn't as to the substantive counts, it is as to the conspiracy if it be found a conspiracy was formed, because then the acts or the conversations of any one of them would bind all.

Mr. Heller: I mean at this particular time we haven't any such thing.

The Court: I can't say. Unless a conspiracy be formed, of course it would bind only himself.

1502

Q. What was your conversation with Alec Schechter? A. He asked me why I was at his place of business, and I told him I was an accountant, I was sent down to examine the books, and he told me that I couldn't examine them.

Q. Tell us everything that he said to you. Have you told us everything that you remember? A. Not yet. I explained the situation, I told him we were making these formal examinations, and he still objected to my examining them. I then asked if I could use the 'phone, and he told me I could not. I then went to a gas station a few 1503 blocks away and called up the Code Authority——

Mr. Heller: I object to what he did over at the gas station.

The Court: No; he can state what he did but not what he said.

Q. You called up the Code Authority? A. Yes.

Q. Did you receive instructions from the Code Authority? A. Yes.

Q. To what effect?

1504

The Court: Oh, no, no.

Mr. Rice: I will withdraw that question.

Q. What did you do? A. I went back to my place of business.

Q. Then what did you do? A. I was there a short while when I received another call from the Code Authority to go down again to the Schechter Brothers Live Poultry Market.

Q. Did you go down again? A. Yes, sir.

Q. To A. L. A. Schechter Poultry Corporation?

1505 A. I did.

Q. What did you do? A. As I was walking in the door the same man that I identified——

Q. That is Alex Schechter? A. Alex Schechter looked at me as if he had never seen me before. And I walked into the office, and as I was walking in he asked me again what I wanted, and I told him. We were in the office at the time, and he said, "Nothing doing." He says, "I am going to see Mr. Peterson in the afternoon." I was in the place and saw in his office he had a coin 'phone, telephone, so I didn't ask the second time. I used

1506 it, and called the office up again, I called the Code Authority up, and Mr. Peterson then spoke to Alex Schechter.

Q. Did you talk with Leroy Peterson? A. I did.

Q. On the telephone? A. I did.

Q. Do you recognize Mr. Peterson's voice when you hear it over the telephone? A. I think I can.

Q. And you are certain you were talking with Leroy Peterson? A. Yes.

Q. Well, then what happened after you had talked with Mr. Leroy Peterson? Was this in

Alex Schechter's presence? A. Yes; he was there.

Q. He was standing near you? A. That is right.

Q. Then what happened? You talked with Mr. Peterson on the telephone? A. Yes, and I was instructed——

The Court: Never mind about that.

The Witness: I waited there.

Q. Did anybody else talk with Mr. Peterson 1508
on the telephone? A. They did not.

Q. While you were there? A. That is right.

The Court: Anybody else besides whom?

The Witness: Besides I and Alex Schechter.

Q. Did anybody besides you talk with Mr. Peterson? A. Alex Schechter.

Q. At that time? A. Yes, at that time.

Q. Before you hung up the receiver? A. I spoke to Peterson twice; in between the conver- 1509
sation I put Mr. Alex Schechter on.

Q. Let us see just what that conversation was. You called up Mr. Peterson? A. That is right.

Q. And you talked with him first? A. That is right.

Q. Then what happened? A. I put Alex Schechter on.

Q. On the same wire? A. Yes, on the same wire.

Q. And you heard Alex Schechter talk with Mr. Leroy Peterson? A. That is right.

Q. You heard him talk with the person on the other end of the wire? A. That is right.

1510 Q. What did you hear Alex Schechter say?

Mr. Heller: I object to that unless he can state at that particular time he knew that Mr. Peterson was on the 'phone.

The Court: He can testify to anything he said to anybody in his presence; what he was present and heard Alexander Schechter say he can testify to, the same as what Schechter may have said to him he can testify to.

1511 Mr. Heller: Exception.

Q. What did you hear Alex Schechter say? A. I can't recall the exact substance, the exact words, but they were talking about the examination of the books.

The Court: What did he say in substance?

The Witness: That is the substance——

The Court: Give us in substance what he said.

The Witness: Well, I wouldn't want

1512 to——

The Court: Did he give the name of anybody over the wire at all when he spoke?

The Witness: Oh, yes, I recall now, he said that he would speak to his brothers.

Q. Did he mention any particular brother? A. That I can't recall.

Q. Did he say anything else; what was he talking about? A. Generally about the poultry business.

Q. About the poultry business or about the books? A. About the what?

Q. About the books in the poultry business? A. Yes, about the books and then the poultry business.

Q. Tell us substantially what you heard Alex Schechter say. A. I wouldn't definitely state.

Q. Did he say anything about chickens?

Mr. Heller: I object to that. He says he does ot remember.

The Court: He does not remember the exact words, he is trying to get the substance from him. 1514

What was the first thing he said when he went to the telephone?

The Witness: Naturally, I spoke to him—

The Court: What did he say?

The Witness: I couldn't tell you in exact words; in substance he spoke to him about the books.

The Court: What did he say when he started off? How did he start off?

The Witness: How did he start off?

The Court: How did he start off the conversation over the telephone? 1515

The Witness: That is impossible for me to say at this time.

Q. Let us see if we can't reconstruct this talk. Did you talk to Mr. Peterson first? A. I did.

Q. You talked to him in Alex Schechter's presence? A. I did.

Q. How far was Alex Schechter standing from you at the time? A. Right beside me.

Q. Was he beside you? A. Yes.

Q. Was he doing anything else? A. No, he was not.

1516 Q. Just listening to you? A. Yes.

Q. What did you say in his presence? A. I told them I was refused the examination the second time.

The Court: Told who?

The Witness: Mr. Peterson.

The Court: Did you call him by name, or did you just say "Hello"?

The Witness: I said, "Hello," and "Mr. Peterson," and then told him I was
1517 refused a second time; that I had thought everything was all settled, and that I was going to be given the books.

Q. Did you tell him whose market you were at? A. Oh, yes.

Q. Whose market did you tell him you were at? A. I told him I was at the Schechter Brothers Market.

Q. Did you tell him you had talked with any of the Schechter Brothers? A. Yes, I told him that I spoke to one of the brothers here.

Q. One of the brothers present? A. That is
1518 right.

Q. What did you tell him that the Schechter brothers had said? A. I told him that he would be there in the afternoon and speak to him about the examination.

Q. That who would be there? A. Mr. Alex Schechter.

Q. And then you put Alex Schechter on the wire? A. I did.

Q. And then what did Alex Schechter say, in substance? A. That he would have to speak to his brothers about allowing me to examine his books.

Q. Do you remember anything else? A. No, not definitely.

Q. Did you tell Alex Schechter who you were going to talk with on the telephone?

Mr. Heller: That has already been testified to, your Honor.

The Court: He can ask him. Overruled.

Mr. Heller: Exception.

A. Yes, I told him I was calling up Mr. Peter- 1520
son.

Q. Did you tell him who Mr. Peterson was? A. I did not; apparently he knew who Mr. Peterson was.

The Court: Strike out "apparently knew."

A. He had already mentioned his name to me before.

Q. Mr. Alex Schechter had mentioned Mr. Peterson's name? A. Yes, sir, certainly.

Q. Well, then, what happened after this tele- 1521
phone call? A. I waited for about a half an hour and some men came in the office and then Mr. Alex Schechter asked me what books I would want. I told him what books I wanted and he started to put the books on the desk. As I started to turn the pages of one of the books a man came in with two canes, whom I later found out was Joseph Schechter.

Q. Can you point out Joseph Schechter now? A. Yes, sir, the man right there at the end of the table (indicating defendant Joseph Schechter).

1522 Q. How long had you been looking at the books when Joseph Schechter came in? A. I just had started.

Q. Well, how many minutes, seconds or hours? A. A half a minute or so.

Q. What happened? A. He told me that I could not see the books.

Q. Do you know whether Joseph Schechter was working at the A. L. A. Schechter Poultry Corporation at 858 East 52nd Street at that time? A. No.

1523 Q. You don't know where his market was? A. No.

Q. What happened between you and him? A. I explanied that I was the examiner from the Code Authority to examine his books, and then he started talking about the Code Authorities, blasting them——

The Court (to witness): Strike that out. Now, Mr. Witness, you are not here to give us your conclusions. You are here to give us substantially what was said.

1524 The Witness: He said that the Code Authority, the men there were a bunch of crooks, and that he probably would have been in with the gang if he had not fractured his leg.

Q. Did he say what gang? A. No, the group—Mr. Galloway and Mr. Frenzel.

Q. Who is Mr. Galloway? A. He is now with the Code Authority.

Q. And who is Mr. Frenzel? A. He has his own poultry market.

Q. Isn't he one of the members of the Advisory Committee of the Live Poultry Code Authority? A. He is.

Q. Now, tell us everything that you remember Joseph Schechter saying to you? A. Well, after he had mentioned about the Code Authority, the group, being a bunch of crooks, I asked whether I could use the 'phone.

Q. Before we go to that, let us see if you have told us everything that Joseph Schechter said. He called the Code Authority a bunch of crooks? A. He did.

Q. Did he call them any other names? A. Nothing else that I can remember. 1526

Q. Did he say anything about any particular individuals in the Code Authority? A. No, he bunched them. When he spoke of the bunch, a number of them, Galloway, Frenzel and a number of others that he mentioned in the group.

Q. You don't remember anything further that he said? A. No.

Q. Or any of the other Schechter brothers present at the time that Joseph Schechter said this? A. They were all there, the four of them.

Q. All of whom? A. All of the Schechter brothers that are seated at the table over there (indicating). 1527

Q. The man that stood up as Aaron Schechter, did you see him there? A. Yes, sir, I did.

Q. And the third man, who is Martin Schechter, will you stand up, Martin Schechter?

(A gentleman in the court room rises.)

A. I did not know his name.

Q. Well, did you see him there? A. Yes.

Q. At the time that Joseph Schechter was talking? A. Yes.

Q. Was he in your presence and Joseph Schechter's presence? A. Yes.

Q. Did you see Alex Schechter there? A. Yes.

Q. And all of them in your presence and Joseph Schechter's presence? A. Yes.

Q. And did they participate in the conversation? A. Alex did.

Q. I mean Aaron, Martin and Alex. A. Alex did.

Q. What did he say? A. He said he did not see any reason in the world why we could not show the books.

1529 Q. Who did he say that to? A. To Joe.

Q. And what did Joe say? A. He still refused to show the books.

Q. What did he say? A. He said no.

Q. Did he give any reason? A. He did not give a reason, but he said he did not see why he should give the books to anybody.

Q. Did anybody say anything about your authority to examine the books for the Code Authority? A. No.

Q. That was not questioned? A. Never.

1530 Q. Now, let me ask you this: At the time that Alex Schechter talked to Mr. Peterson on the telephone were any of the other Schechter brothers present? A. None of them were in the office. The bookkeeper was the only one present.

Q. Now, what happened after the conversation that you had with Joseph Schechter and Alex Schechter and with the other two Schechter brothers standing by? A. I asked whether I could use the 'phone and Alex Schechter was standing near the 'phone. I gave him the telephone number of the Code Authority. They called up Mr. Peterson.

Q. Who called up? A. I was going to call, but he was right there and he called.

Q. Did you hear who it was that he called for? A. Yes; he asked for Mr. Peterson.

Q. And you heard him do that? A. Yes.

Q. And did you see what number he dialed, or wasn't it a dial 'phone? A. It was a dial 'phone.

Q. Did you see what number he had dialed? A. No.

Q. You had given him the number of the Live Poultry Code Authority? A. Yes.

Q. Then what happened? A. He spoke to Mr. Peterson.

1532

Q. That is, he spoke on the telephone? A. Yes, and then he put——

Q. Or what did he say? A. He told them that he wanted to put his brother, Joseph Schechter, on the telephone.

Q. Did he say anything else? A. Not at the time.

Q. Did he say anything about the books? I don't want you to judge what is important. Tell us everything that was said. A. I don't think he did.

Q. Then what happened? A. He put Joe Schechter on the 'phone.

1533

Q. You saw him talk on the telephone? A. Yes, I saw him speak on the telephone.

Q. Now, what did he say? A. I wasn't listening to his conversation, I was speaking to Alex Schechter and some others that were there at the time. I did hear one sentence at the time, "We are violating the Code every minute of the day."

Q. Who said that? A. Joe Schechter.

Q. And who did he say it to? A. Mr. Peterson.

Q. He said it over the telephone? A. Yes.

Q. And you were standing nearby all the time? A. Yes.

1534 Q. And you heard him say, "We are violating the Code every minutes of the day"? A. Yes.

Q. At that time were the other Schechter brothers whom you have identified present? A. Yes, they were standing around the office.

Q. Were they standing near the telephone? A. One was standing near the door and a few were standing near me.

Q. Were they all standing within earshot of the telephone? A. Oh, yes.

Q. You heard that distinctly? A. Yes.

1535 Q. And you heard nothing else that you remember? A. No, I happened to be talking to somebody else at the time.

Q. Did Joseph Schechter say anything about letting the Code Authortiy examine the books at that time?

Mr. Heller: I object to counsel's question. He has already answered.

The Court: I don't know whether he has or not. I will overrule the objection.

Mr. Heller: Exception.

1536 Q. Did Joseph Schechter say anything else? A. Yes, he turned around and told me to take the wire.

Q. And did you take the wire? A. I did.

Q. And did you talk to the person on the other end? A. Yes, Mr. Peterson.

Q. You recognized his voice? A. Oh, yes.

Q. Was Mr. Leroy Peterson the Code Supervisor? A. Yes, sir.

Q. Then what did you do? A. I went back to my office.

Q. Did you examine the books? A. I did not.

Q. Did Joseph Schechter say anything after the telephone conversation, to you, about examining the books? A. No, he did not.

Q. Did you ask him whether you could examine the books? A. After the conversation?

Q. Yes, after the conversation. A. No, it was all settled that I would see the books.

Q. What do you mean by that; did you hear Mr. Schechter say anything to Mr. Leroy Peterson? A. No, Mr. Peterson told me that I would be able to see the books, he told me to come back to my office. 1538

Q. Mr. Zasloff, when you heard Joseph Schechter say to Leroy Peterson, "We are violating the Code every minute of the day"—— A. Yes, sir.

Q. Did any of the other Schechter brothers say anything? A. I don't think they did. I mentioned it to them.

Q. And did they say anything? A. No.

Mr. Rice: That is all.

Cross examination by Mr. Heller: 1539

Q. What company are you connected with? A. Lewis P. Gallinson & Company.

Q. Lewis P. Gallinson & Company? A. That is right.

Q. Are they certified public accountants? A. They are.

Q. And was the firm retained by Mr. Peterson? A. The Code Authorities, Mr. Peterson being the Code Supervisor.

Q. When did your retainer commence? A. I couldn't tell you that.

Q. When was the first time you were asked to go out to examine the books? A. June 1.

1540 Q. That was the very first day? A. Yes, sir—well, there were other people on the job, but I happened to get the job that day.

Q. As far as your concern is concerned, are you the only one? A. No, sir.

Q. How many men of your concern were employed to do this work? A. We were not employed specifically to do that work. There were others in our firm that did the same work, two or three others.

1541 Q. You mean there were two or three people engaged to examine books? A. Yes, sir.

Q. And they were engaged to do that on June 1st? A. Prior to June 1st.

Q. Weren't you to commence on June 1st? A. No, I started that work of examining on June 1st.

Q. Do you know from your own knowledge whether an examination was had a week before that? A. No, sir.

Q. As far as you are concerned June 1st was the first time you were asked to examine the books? A. That is right.

1542 Q. And you were sent to 858 East 52nd Street? A. I was.

Q. What time of the morning were you sent there? A. Naturally I got the assignment the night before.

Q. What time did you get there? A. I got there around nine o'clock.

Q. In the morning? A. That is right.

Q. What did you take with you? A. I had my bag, paper, pencils.

Q. And what instructions did you receive? A. I received instructions to examine.

Q. Examine what? A. The books of the Schechter Brothers.

Q. What were you supposed to get from those books? A. I was supposed to get the

balance sheet and profit and loss statement of the concern, the prices that they sell their poultry, and make comparative prices per week.

Q. For how long a period of time? A. For a period of four weeks.

Q. You were asked to examine the books for four weeks prior to June 1? A. That is right.

Q. In other words, from May 1 to June 1? A. That is right.

Q. And did you have a letter or credentials with you? A. Not at that time. 1544

Q. Showing that you were an authorized agent? A. Not at the time.

Q. You had nothing at all? A. No, sir.

Q. Do you know whether your firm is an accountant for any poultry persons? A. We are not.

Q. You are sure about that? A. Pretty certain.

Q. You know everything that goes on in your firm? A. Well, to a good extent.

Q. Are you a member of the firm? A. I am not.

Q. Have you a financial interest in the firm? A. I have not. 1545

Q. The boss does not tell you everything he does, does he? A. No.

Q. You don't know exactly where other employees go to from day to day? A. No, we have an office manager for that.

Q. So you got there at nine o'clock in the morning, is that correct? A. I did.

Q. You did not phone the Schechter firm the night before that you were coming? A. I did not.

Q. You just came in unexpectedly? A. Yes.

Q. Without any notice? A. Right.

Q. And you met, you said, Alexander Schechter there in the morning at nine o'clock. A. Yes.

1546 Q. Were there any chickens on the floor? A. There were in the rear but they had some chicken coops outside, bags——

Q. Any employees there? A. Yes, there were some employees.

Q. Any customers there? A. No, sir.

Q. You did not see any customers? A. No.

Q. How long did you expect to take to examine those books? A. As long as it would have taken.

Q. If necessary the entire day? A. A day or two.

1547 Q. You were going to do it right there at the premises? A. I was.

Q. Were you not? A. Yes.

Q. And you asked for no permission prior to that day to make such arrangements for June 1st? A. I did not.

Q. Do you know what day June 1st was? It was a Friday, correct? A. If it was.

Q. Do you remember that? A. I don't know whether it was a Friday. Yes, I think it was on a Friday.

Q. Wasn't it a Friday? A. Yes, that is right.

1548 Q. Is that correct? A. Yes.

Q. And you were going to come the following day, if necessary, were you not? A. Yes, if they were open.

Q. When you asked for the books, he said he would have to consult someone else? A. No, he did not.

Q. Well—— A. He refused an examination of the books.

Q. Didn't I hear you say he laid some books on the table? A. That was the second time I was there.

Q. The first time he said he would not allow, would not let you examine the books until he consulted someone, is that correct? A. Yes, sir, that is the second time.

Q. Nine in the morning? A. No, this was at eleven. That was the second time.

Q. You left the place at nine o'clock? A. No, it was after nine o'clock.

Q. And when he refused you the books, you went away? A. That is right.

Q. And you came back at what time? A. 1550
About eleven.

Q. That was after you had a telephone conversation at the gasoline station, is that right? A. Well, I had the conversation, I got back to my office and then I went back to Brooklyn again.

Q. Where is your office? A. 11 Park Place.

Q. What time did you leave 858 East 52nd Street after nine o'clock? A. Oh, I left in half an hour or so.

Q. At half-past nine? A. Probably.

Q. And you went to your office? A. Yes.

Q. Did you speak to anybody when you got to 1551
your office? A. Yes, Mr. Lipsin.

Q. Mr. Lipsin? A. Mr. Lipsin, office manager.

Q. After that conversation you went back again? A. No, I did not.

Q. How long did you stay at your office? A. Very, very short time. It may have been a few minutes.

Q. How long did you stay at your office? A. May have been a few minutes.

Q. Then where did you go? A. We got another telephone call that I go back, that everything is all right, that they will let me see the books.

Q. You got a telephone call from whom? A. He got the telephone call. I was not speaking.

Mr. Lipsin received the telephone call from the Code Authorities.

Q. I am talking about the time you were back in the office. A. Yes.

Q. After you were refused the first time to examine the books. A. Yes.

Q. You stayed there a few minutes, is that right? A. (No answer.)

Q. Is that right? A. When?

Q. At your office, 11 Park Place. A. Yes.

1553 Q. Then you went back again according to certain instructions from Mr. Lipsin? A. Yes.

Q. You had no conversation with anyone else but Lipsin? A. That is right.

Q. And you got back to Brooklyn at what time? A. Got back about eleven o'clock.

Q. And then whom did you find at the place? A. Alex Schechter was there.

Q. And at that time he said you could examine the books? A. He did not.

Q. When was it he laid the books on the table?

Mr. Rice: I would like to hear that
1554 name whether it was Alex or Aaron.

The Witness: Alex Schechter.

Q. You asked him to examine the books again? A. Yes.

Q. What did he say then? A. He still refused. He said he was going to see Mr. Peterson in the afternoon.

Q. Did he tell you that he was going to see Mr. Peterson in the afternoon? A. About the books, about the examination of the books.

Q. And said he would consult him first before he would let you examine? A. Yes.

Q. Then where did you go? A. I stayed right there. I went in his office.

Q. Did you receive instructions to insist that you be permitted to examine the books? A. No, I did not insist.

Q. Did you state your qualifications to Mr. Alexander Schechter? A. Qualifications of what kind?

Q. As to your capacity or competency as an accountant. A. I wasn't questioned.

Q. You did not state anything? A. It was not questioned. 1556

Q. You merely said you were there to examine the books? A. I did.

Q. Is that correct? A. That is right.

Q. Then he refused you again, is that it? A. That is right.

Q. And then you went away again? A. No, I was there——

Q. You stayed there? A. I was right in his office.

Q. For how long did you stay then? A. For about half an hour.

Q. What happened after that thirty minutes? 1557
A. We had the telephone conversation with Mr. Peterson.

Q. Yes. A. And then Mr. Alex Schechter asked me what books I wanted. I told him everything.

Q. And he laid the books on the table? A. Yes.

Q. And then you say about what time did Mr. Joseph Schechter come in? A. Just about the time I started examining.

Q. 11:30? A. Well, about 11:30, I cannot exactly say whether it is a few minutes before or after.

1558 Q. When you say he came in with two sticks, you mean he came in with two crutches? A. Two canes, I said.

Q. Hobbling in? A. Whether he was hobbling, he came in with two canes.

Q. Were those canes used to support himself? A. Yes.

Q. Weren't brought for the purpose of punishing you, were they? A. I don't think so.

Q. He had not known about your presence there, had he? A. That I cannot tell you.

1559 Q. Do you know as a matter of fact Joseph Schechter had nothing to do with that concern at that time? A. Repeat that question.

Q. Do you know that it is a fact that Joseph Schechter had nothing to do with 858 East 52nd Street as of that date? A. Well, he seemed to have everything to do at the time he got there.

Q. Did you gather that information from the books? A. I did not.

Q. Do you know that the Government examined the books? A. That I do not.

Q. You do not know anything about that? A.
1560 Whether they examined them prior to the time I got there, I do not know.

Q. After June 1st. A. After?

Q. Yes. A. I do not know.

Q. You do not know that fact? A. I do not know.

Q. Nobody has ever told you anything about that? A. No, sir.

Q. Is that correct? A. No, sir.

Q. Didn't Joseph Schechter say to you he would like to know whether you were entitled to examine the books before he would permit you to do so? A. Not that I know of.

Q. You do not recall that? A. Not that I know of. 1561

Q. Did he say to you that he would like to consult his attorney whether you had a right to do so or not? A. Yes, he mentioned something of that thing that he was going to consult an attorney whether the Code Authority had any right to examine the books.

Q. He said to you that the entire Board of the Code Authority were a bunch of crooks? A. He didn't say the entire Board, he mentioned the Code Authority and mentioned a few names. 1562

Q. Did you ask him about that? A. I didn't want to go any further, I wasn't there for that purpose.

Q. Did you ask him whether or not the Code Authority was honest or dishonest? A. I didn't have any further conversation on that point.

Q. You mean that just came out of him? A. Yes.

Q. Spontaneously? A. That is right.

Q. Without any cause? A. There may have been cause because of the examination of the books. 1563

Q. But you didn't examine the books? A. The request for the examination of the books.

Q. Caused him to say that? A. I couldn't tell you the cause.

Q. You didn't have any discussion with him with reference to the members that constituted the Code Authority? A. I refused to argue with him.

Q. Do you know who Mr. Frenzel is? A. Personally I do not.

Q. Don't you know that he was a competitor of his? A. I know that he is a competitor.

1564 Q. And he is on the Board Committee? A. He is.

Q. Didn't he tell you he would want to know from an attorney first—you know, Mr. Frenzel's place of business was in the same neighborhood, don't you? A. That I do not know whether it was in the same neighborhood.

Q. You know that he was a competitor of his? A. I know he was in the same business.

Q. You know he was considered a bad risk in the industry, don't you? A. I can't tell you any-

1565 thing like that, I have nothing to do with that.

Mr. Rice: If your Honor please, we aren't trying out the witness' knowledge about Frenzel, as a matter of fact we are not trying out his character or his standing in the business or whether or not he is a good risk.

The Court: I do not think we are concerned very much with what kind of a risk he was.

Mr. Heller: All right.

1566 Q. Do you know it is customary as an accountant to get a letter of introduction before you go to see a firm? A. Well, I wouldn't say that.

Q. You have been an accountant for quite a number of years, is that it? A. I have.

Q. And haven't you on occasions received a letter from the firm? A. Very few occasions.

Q. You have though, haven't you? A. Yes, on a very few occasions.

Q. That is when you had already been at a firm you would not require a letter the next time? A. No, I have been in places that didn't know me.

Q. Didn't know you? A. Yes.

Q. And they permitted you to come in? A. Yes.

Q. And examine the books without a letter of introduction? A. Yes.

Q. Without your firm's card? A. Yes.

Q. Is that correct? A. Yes.

Q. Without calling up your firm to ascertain whether you were the accountant designated to examine the books? A. Yes.

Q. They did do that? A. Yes.

Q. That happens very frequently? A. Yes, 1568
that would happen very frequently.

Q. In your firm? A. Yes.

Q. Have you had any other experience besides being with this firm? A. No.

Q. How long have you been with this firm? A. Over four years.

Q. Do you know what your pay was to be for examining these books? A. I do not.

Q. Were you getting paid for that day? A. Of course, I am on a weekly salary.

Q. Isn't that so? A. Yes.

Q. You are required to do work every day? 1569
A. Yes.

Q. And you lost this day, is that correct? A. Well, naturally.

Q. You were kind of peeved, weren't you? A. I lost the day, no, I was not peeved about it.

Q. I mean your firm. A. No, we were not peeved.

Q. They were paid too, were they? A. I do not know that, I couldn't tell you whether or not we were paid. I know I was paid, I was on a weekly salary.

1570 Q. Now, do you know how large this office is, if it be an office? A. Yes, it is an office, a small office.

Q. About how small, do you know the dimensions of it A. Well, I wouldn't accurately say, it was a small office.

Q. And you said before that you were having some conversation with someone outside when Mr. Joseph Schechter was telephoning. A. Outside? I never said anything like that.

1571 Q. Was it in the small office? A. Yes, it was right in the office.

Q. Everybody was in there? A. There was quite a number of others in there, where his brothers——

Q. About how many people were in that office? A. I think there were two other employees there.

Q. Employees? A. Yes, I think they were employees; they were around there.

Q. And the four Schechters? A. Yes.

Q. They were present? A. Yes.

Q. And you were in there? A. Yes, sir.

1572 Q. Do you know the dimensions of that room? A. I do not; there were two desks in that room.

Q. And the safe? A. Yes; it was small.

Q. A very small office? A. But we were there.

Q. Would you say it was about 3 x 5? A. 3 feet by 5 feet?

Q. Yes. A. You are wrong; it is much larger than that.

Q. Can you point out in the court room how large that room was? A. Well, I would say up to the back of the chair of that juryman, up to this point, about up to this point (designating).

Q. The back of the room? A. Up to this point, up to here (designating the back of the court room).

The Court: What would you estimate that to be? That does not mean anything.

Mr. Rice: I will let Mr. Heller make his estimate.

Mr. Heller: I would consider that to be about 9 by 6.

The Witness: I would not even attempt to measure it. In this short space there 1574 were two desks? A. Yes.

Q. A safe? A. Yes.

Q. Chairs? A. Chairs?

Q. Yes. A. No, I think there was one chair.

Q. A gas stove? A. I didn't observe everything in the room.

Q. But you remember the conversations that took place? A. Yes.

Q. Very definitely? A. Certainly, because they were on the things that I was supposed to know.

Q. Then did Mr. Joseph Schechter say to you 1575 that all members of the industry were violating the Code? A. No, sir.

Q. Did he say to you, "Why do you pick on me?" Did he use that language? A. Not that I remember.

Q. Did anybody else use that language? A. They mentioned the fact about other audits being made.

Q. I beg your pardon? A. They mentioned the fact about other audits being made, and that is all. He asked if other audits were made.

Q. What did you tell him? A. I told him they were, but had nothing to do with his audit.

1576 Q. You know of your own knowledge that other audits had been made prior to June 1st? A. Yes, sir.

Q. And did you see those audits? A. I didn't see them.

Q. Somebody told you about it? A. I saw the man that went out on them.

Q. When did he go out? A. I cannot remember the date.

Mr. Heller: That is all.

1577 Mr. Rice: That is all.

(Witness excused.)

LEROY PETERSON, recalled, testified further as follows:

Direct examination by Mr. Rice continued:

Q. Now, will you tell us about this telephone conversation that you had with Alex on June 1, 1934? A. I came into the office between 11 and

1578 11:30 on the morning of June 1st. As I came in the office somebody said I was wanted on the 'phone. It was what we know as our outer office. As far as I can recall the conversation—the man said that he was Alex Schechter and he wanted to know who this man was that was looking at his books. I told him that it was the auditor of the Code Authority and that we were looking over the books of the various slaughter houses and we wanted to examine his books. I do recall that he said he could not permit us to look at the books, and that the boss was Joseph Schechter—of all the Schechter concerns, and he would have to ask his brother Joe Schechter

before he could permit us to look at the books. I then asked if the auditor was still there—that is the previous witness, Mr. Zasloff,—and he said he was. I said, "Can I speak to him?" and he said, "What instructions do you want me to follow now?" and I said, "Well, for the time being go back to your office and I will communicate with you further." That ended that conversation.

Q. Now, did you have a subsequent conversation with Joseph Schechter on that day? A. 1580
Within a short time after that—I would not know exactly the number of minutes, but a short time after I got a call from a man who said he was Joe Schechter. He wanted to know again who these people were and what we wanted. I said that we were sending a man to examine his books. He said that he did not think that he wanted to let the Code Authority examine the books. He said, "Why do you want to examine my books?" And I said, "We have had a number of complaints that you have been violating the Code." I said, "By the way, Mr. Schechter, 1581
do you know you have been violating the Code?" And he said, "Mr. Peterson, I have been violating this Code every minute since it has been in effect, and it is my intention to continue to do so." I said, "Well, if that is the case, Mr. Schechter, there is nothing further to do," and I hung up.

Q. Now, during this conversation that you had with Alex Schechter, the first conversation, was anything said about the authority of Mr. Zasloff to examine the books on behalf of the Code Authority? A. I believe that he asked me if we had sent somebody to examine the books, and I said, "Yes," we had.

1582 Q. Was anything further said about it? A. I said, "We sent a man out this morning. He is from the firm"—I am not sure now whether it is Gallinson & Son or Gallinson & Company. It is a firm who previously did work on examining books of poultry concerns and through our Mr. Galloway we hired this firm because we thought that they would be familiar with the method of the keeping of books in poultry concerns.

Q. Now, was anything said about Mr. Zasloff's
1583 authority to represent the Code Authority in examining the books? A. Nothing further.

Q. Was anything said about that by Joseph Schechter in the second conversation over the telephone? A. Not that I recall; not a word.

Q. Nothing whatever? A. No.

Q. Now, on June 18, 1934, did you have a conference with any of the Schechter brothers? A. I did.

Q. Which one? A. Joseph Schechter and Alex Schechter.

Q. Now, who else was present at that conference?
1584 A. Our attorneys, Mr. Loeb and Mr. Dale, and our slaughter house representative, Mr. Forthsmith, and myself, and our N. R. A. representative, Mr. Wechsler.

Q. Where was this conference? A. At my office at No. 641 Washington Street.

Q. Now, you stated Mr. Heller was present at that conference? A. He was there too, I beg your pardon.

Q. And who arranged that conference? A. Mr. Heller.

Q. And between the time of June 1st and this conference of June 18th, had the Code Authority

conducted investigations of the various slaughter houses and slaughter house markets? A. Yes.

Q. Had you conducted an investigation of the practices of the Schechter brothers who are on trial here? A. We had.

Q. And what took place at the conference at the Code Authority office on June 18, 1934? A. One or two days previous to the conference Mr. Heller came to the office and asked if it would be possible for the Code Supervisor to have a conference with his clients. I asked him who his 1586
clients were and he said the Schechter brothers. He told me that they were running various slaughter houses in Brooklyn and I said that I would be delighted to see anybody from the industry about anything pertaining to the industry, so we arranged a conference. I believe the date was June 18th, at which these various people attended.

Q. Did Joseph Schechter say anything about that conference? A. Yes.

Q. What did he say? A. He did most of the talking.

1587

Q. Did he make any reference to the telephone conversation that you had had with him on June 1st? A. Yes. I was just trying to refresh my mind as to what led up to that remark, but I recall asking Joseph Schechter if he recalled having talked to me on the telephone. He said he did. And I said, "Do you recall what you said in that conversation?" And he said, "Yes." I said, "Well, do you recall at that time that you said that you had been violating the Code every minute since it had been in effect, and you intended to continue to do so?" He said, "Yes, I certainly did."

1588 Q. Was Alex Schechter present at the time that Joseph Schechter said that? A. Yes.

Q. Was he present during the entire conference? A. Yes.

Q. Was Joseph Schechter present during the entire conference? A. Yes. I might add, the entire conference, I was not present at the entire conference, but some people of our office were present during the entire time that Joseph and Alex Schechter were at the office.

1589 Q. Did anybody prepare a memorandum of this conference immediately afterwards? A. Yes.

Q. Who? A. Mr. Dale, our attorney.

Q. Within how long after the conference took place? A. Immediately after.

Q. Within five minutes? A. Less than that. Immediately.

Q. And you have preserved Mr. Dale's memorandum? A. I have.

Q. Did you read the memorandum after it was prepared? A. I did.

Q. And you have recently refreshed your memory by referring to that memorandum? A. I

1590 have.

Q. Was anything said about Joseph Schechter's relationship with the A. L. A. Schechter Poultry Corporation? A. At various times during the conversation Joseph Schechter indicated —stated.—

The Court: What did he say, not "indicated?"

The Witness: Stated that all matters pertaining to the purchase of poultry for the various Schechter corporations were in his hands because he was the credit risk, and all poultry had to be bought

through him, and that all matters pertaining to the various Schechter concerns were under his direction; he had been in the business a long time; that he had recently broken a leg, he had been out of the business for a short time, and was now back in it.

Q. At that time do you know what market was being actually operated by Joseph Schechter? A. Personally I do not know.

Q. You do not know? A. No. 1592

Q. Do you know what market was being operated by Alex, Aaron and Martin Schechter? A. I know that there were two slaughter houses operated by them, one at Rockaway Avenue and one at 52nd Street.

Q. But you don't know which is which? A. I don't know which is which.

Q. Did Alex Schechter say anything during this conference? A. Yes; we discussed the various—while discussing the various trade practices of the Code having to do with the sale of culls, that is, poultry unfit for human consumption, inspection and straight killing, Alex Schechter said that they had—only after—for one week since the Code was in effect they disposed of their culls, that is, killed them and disinfected them. After that they continued to save them and sell them on Fridays to the colored trade. 1593

Q. Did he say anything else? A. He said that they sold them from 8 to 10 cents a pound and that was the usual custom before the Code.

Q. Was anything said by Alex or Joseph Schechter about having received notice of the Code? A. Alex Schechter stated upon a question from Mr. Loeb, our attorney, that both he

1594 and his brother, and the Schechters, of course, knew that there was a Code; that they had talked of it for months; they had been looking forward to it; they would hope, as the whole industry had hoped, that this was going to be the solution of the industry, and they said for the first week everything went all right, "We lived up to the Code, but now we are not living up to the Code any more."

Q. Who stated that? A. Both Alex and Joseph Schechter at different times during the conversation.

1595 Q. Was anything said about the practice of straight killing?

Mr. Heller: I have tried to be liberal. Let him say from his own knowledge what transpired. Counsel is telling him was such and such a thing said, and he said yes.

The Court: No, he said was anything said about a certain subject.

Mr. Heller: About straight killing.

1596 The Court: Was there anything or wasn't there?

Mr. Heller: Let him ask what conversation took place and let him state it from his own knowledge.

The Court: But if the man doesn't remember it all, his attention can be directed to it.

Mr. Heller: He has a memorandum he said was prepared two minutes or five minutes after the conference.

The Witness: In the matter of straight—

The Court: Let us have the whole conversation. That is what we ought to have.

Then if you cannot answer, why, your attention can be directed.

Q. How long did this conference last? A. Oh, I should say more than an hour.

Q. Will you tell us anything else that was said by either Alex of Joseph Schechter at that conference? A. If it is permissible to refer to this memorandum that was made five minutes after the conference, I will be glad to give you——

Q. Do you recall anything further at the moment that was said at that conference without referring to your memo? A. Yes. 1598

Q. Tell us what you recall, and when you have exhausted your memory, then we will permit you to look at the memorandum. A. There was a considerable conversation as to straight killing. Joseph Schechter said that the idea of straight killing was very good, if it could be practiced, but that it was so difficult for a man to make a living now, due to the keen competition in the live poultry business, that he saw no chance for himself of practicing straight killing; and that he did not intend to do it. I asked him if he 1599 had practiced straight killing the first week of the Code. He said he had and it had worked out very well. He said that the reason he stopped practicing straight killing was that everybody else had stopped it. I said, "Do you realize, Mr. Schechter, that that is what everybody else in the industry says, a great many people in the industry have said that, and that each person says they stopped it because the other fellow stopped it?" I stated to Mr. Schechter that we had had more complaints about him stopping straight killing in that section of Brooklyn than any other person, and I said, "Do you realize,

1600 Mr. Schechter, that I believe you are the first man that stopped straight killing in Brooklyn, and, therefore, you have caused the other people to stop straight killing?" He said, "I do not know whether that is so or not." I asked him where he got his poultry. He said he bought it in West Washington Market and also bought it in Philadelphia. I asked him if he got his poultry inspected—I beg your pardon. I don't think I asked him those questions. I think Mr. Loeb and Mr. Dale asked those questions.

1601 Q. That is, questions as to inspection? A. Inspection.

The Court: Were you there?
The Witness: I was there, yes.
The Court: And you heard it?
The Witness: Yes, sir.
The Court: All right.

A. (Continuing.) Whether the poultry that he got from Philadelphia was inspected or not. He said from time to time he had it inspected. If it wasn't convenient, he did not bother. He was

1602 asked what he meant by that. He said, "From time to time the poultry comes in late at night, it is not convenient to get it inspected, and so we take it in and kill it at five or six next morning."

Q. This is Joseph Schechter that said this? A. Joseph Schechter this is.

Q. Did Alex Schechter say anything about the subject of inspection? A. Not that I recall offhand. Alex Schechter made practically all of the statements having to do with the accumulation of culls, that is, poultry unfit for human consumption, and the method by which they sold it.

1603

Q. Did he say anything about the amount of business that the Schechters had done after the Code went into effect? A. He didn't, but I believe as I recall Joseph Schechter said that everybody in the industry was having trouble making a living, that his business had, he had fallen off tremendously the first week of the Code, that he couldn't stand this loss of business and that he had found it necessary to violate all the provisions of the Code, and in the time from the first week after the inception of the Code to then he had gotten most of his business back again.

1604

Q. Was anything said in response to this statement by any member of your staff as to the volume of the Schechter business? A. As I recall one of the members, I think Mr. Loeb or Mr. Dale—no, Mr. Forthsmith mentioned that the volume of business in all slaughter houses dropped off about the first of June and continued dropping off until after the Jewish holidays in the fall.

1605

Q. At that time did the Code Authority have any figures as to the amount of business that the Schechter Brothers had done just after the Code was adopted? A. I do not recall.

Q. Will you refer to your memorandum and see whether your memory is refreshed on that? A. I recall Schechter stated——

The Court: Don't read it from that; just read it to refresh your recollection.

Q. Is your memory refreshed after looking at the memo? A. Yes.

Q. Will you put the memo away now and state what you recall? A. I recall Schechter stated

1606 that his business had fallen off from 32,000 to 29,000 pounds, and as I have read it now I find that I made the statement that——

Q. Do you recall whether you made the statement? A. Yes, I do know that I made the statement rather than Mr. Forsmith that the volume of business in practically all slaughter houses fall off around the 1st of June and continues off until after the late fall.

Q. At the time of this conference did the Code Authority have in its possession any evidence as
1607 to the activities of Schechter Brothers?

Mr. Heller: That is objected to, your Honor.

Mr. Rice: I withdraw the question.

Q. Do you recall anything else that was said by either Joseph or Alex Schechter at this conference?

The Court: Try and think now of all that was said, and if there was anything else that you haven't stated try to state
1608 it now.

The Witness: Mr. Heller asked me on a number of occasions if he would advise me to advise his clients to still live up to the Code. I said I would not give him any advice, that he was the attorney for his clients, that I couldn't advise him. He brought that up on a number of occasions.

Q. I do not think Mr. Heller is on trial here, so never mind that. Never mind telling us about any conferences you had with Mr. Heller, just tell us what Mr. Alex Schechter or Mr. Joseph Schechter said. A. Once during the conversation

Mr. Joseph Schechter said, "Well, Mr. Peterson, what would you advise me to do? Ought I live up to this Code or not? Nobody else seems to be doing it, what should I do?" And I said, "Mr. Schechter, the reports that have come to me are that you are the man that first started breaking the Code in Brooklyn. I would recommend that you live up to it, because I believe everybody else in your neighborhood wants to if you will.

Q. That was Joseph Schechter? A. Joseph 1610
Schechter.

Q. Did Alex Schechter say anything at that time? A. I believe it was at that time that Alex Schechter then said that they were not able to make a living. I said well, if you will live up to the Code and sell your product at the price which the Code permits you to sell at, which is not to violate the destructive price-cutting clause you would be able to make a living.

Mr. Heller: I did not hear of any price-cutting clause.

The Court: Neither did I. 1611

The Witness: There is a clause in the Code with destructive price-cutting.

Q. But this has nothing to do with price-fixing. A. I did not say price-fixing. I said destructive price-cutting.

Mr. Heller: The Code has nothing to do with that either.

Q. We are not concerned about that, Mr. Peterson; is there anything that was said about the sale of uninspected poultry?

1612 Mr. Heller: I have no objection if Mr. Peterson will study that document for thirty minutes and then let him testify as to what transpired.

The Court: That's right, but they can ask about some specific thing.

Q. Now do you recall anything else that was said? A. At the time that Joseph Schechter gave the conversation that I have just stated, it was just following that, as I recall it, that Alex
1613 Schechter made the remark that they were unable to make a living and then I mentioned the matter of selling at a reasonable profit so that they could make a living and then Alex Schechter brought up the extended conversation about the sale of culls that they had to sell them for such a small price that they hardly made any money out of that at all. Then they had quite a long conversation at that time about straight killing. If we practiced straight killing as we know throw-offs there would be so few that they could be destroyed and a man could make a profit on the
1614 poultry that he did sell.

Q. Well, after this conference what did the Code Authority do with respect to the Schechter Brothers? A. I cannot recall whether it was before or after or both times we continued investigating the Schechters as we did everybody else in the industry that we thought were violating the Code.

Q. And did you continue to investigate the Schechter Brothers after the conference of June 18th? A. We did and we found——

The Court: Never mind what you found.

Q. On the effective date of the Code, April 23, 1934, do you know whether or not there was a meeting for the purposes of electing the members of the Advisory Committee of the Live Poultry Authority Code? A. I do.

Q. Now do you know who was the secretary at that meeting to elect representatives from the slaughter house markets? A. One of the Schechter brothers.

Q. I hand you a paper entitled the minutes of a certain meeting—it is a long title—and I ask you whether or not you have seen that paper before? A. I have. It is part of the minutes of our Industry Advisory Committee meeting. 1616

Q. Is that a part of the official records of the Live Poultry Code Authority? A. It is. Previous to the establishment of the Advisory Committee we kept minutes of all official meetings previous and this is part of those minutes.

Q. Now what is this particular meeting on April 23rd, 1934? A. This is a meeting of the various associations and groups of individuals of the industry for the election of the fifteen members of the Industrial Advisory Committee. 1617

Q. And who was secretary at that meeting which elected the representatives of the live poultry slaughter houses? A. Aaron Schechter.

Q. And you were present? A. I was.

Q. And these are the minutes of that meeting? A. They are.

Mr. Rice: I offer them in evidence.

Mr. Heller: No objection.

(Marked Government's Exhibit 25 in evidence.)

(Short recess.)

1618 Q. Mr. Peterson, you are familiar with the Live Poultry Code? A. I am.

Q. I hand you this document and I ask you whether that is the certified copy of the Live Poultry Code as approved by the President of the United States on April 13, 1934? A. It is.

Mr. Rice: I offer it in evidence.

(Marked Government's Exhibit 26 in evidence.)

Mr. Rice: Now if your Honor pleases

1619 I should like the jury to examine Government's Exhibit 25, which is the minutes of the meeting of April 23, 1934.

The Court: Yes, certainly.

Mr. Rice: And also Exhibit 26.

The Court: Certainly.

(Government's Exhibits 25 and 26 examined by the jury.)

Q. Mr. Peterson, are you familiar with the revocation of the New York Board of Health regulation relating to the inspection of live poul-

1620 try on September 19, 1934? A. I am.

Mr. Heller: Just a minute, I object, your Honor, as not being material.

The Court: What difference does it make? You have proved that there was one in existence at the time.

Mr. Rice: My purpose was to rebut something that was brought out by Mr. Heller, your Honor. He indicated, in questioning one of the witnesses that the Board of Health regulation regarding the inspection of live poultry by the Joint Inspection Service had been revoked. I

merely propose to show that the revocation was on September 19th, 1934, after these violations, and furthermore the Live Poultry Code has been amended as to provide—— 1621

The Court: That doesn't make any difference, it is subsequent to their indictment. If there is no question here that the amendment to the regulation was subsequent to the time of the indictment that that is all there is to it.

Mr. Rice: That is all. 1622

Cross examination by Mr. Heller:

Q. Mr. Peterson, you stated that on June 18, 1934, two of the Schechter brothers and myself were present at your office, is that correct? A. That's right.

Q. And that was my second visit to your office? A. That's right.

Q. Now the first visit I discussed the questions of law with your counsel, is that correct, in your presence? A. You also talked to me. 1623

Q. Do you remember my asking you whether you had any discussions as to whether or not, when members of an industry do not sign the Code, whether they must show their books and must pay assessment, do you remember my asking that question? A. Yes.

Q. And do you remember my discussing further the legal questions with your counsel in your presence? A. I do.

Q. Do you remember my saying that I came up for the purpose of determining whether or not I should advise my people——

1624 Mr. Rice: Now if the Court pleases, I object to this line of questioning. We recognize that Mr. Heller is not on trial here and we do not mean to criticise him.

The Court: No, but his clients would be bound by what he said if they were present when this conversation took place.

Mr. Rice: I don't think the clients were present when this first conversation took place.

Mr. Heller: Counsel brought out on
1625 direct examination that I was there.

The Court: That's right. If they were there he can bring out anything that happened there.

Mr. Rice: He is speaking now of a previous conference between Mr. Heller and Mr. Leroy Peterson and his counsel.

Q. I saw you on two occasions, is that correct? A. Right.

Q. They were both between June 1st and June 18th, is that correct? A. Yes.

1626 Q. Now let us come back to June 18th. I previously made that appointment, did I not? A. Which appointment?

Q. For June 18th. My people, that is the defendants were not called on to answer charges on June 18th, were they? A. No.

Q. That was voluntarily suggested by me, is that correct? A. Yes.

Q. Now you don't mean to convey to this jury that I brought my people on June 18th for the purpose of telling you that they had violated the Code and will violate it, is that what you want the jury to believe? A. I don't, you knew what Mr. Schechter was going to say?

1627

Q. Didn't I have a talk with you and your counsel prior to that day? A. You did, yes.

Q. And I suggested that a further conference be had? A. That's right.

Q. Didn't I suggest to you that my people wanted to know; for instance if they did not make any money during a certain week——

Mr. Rice: Now, if your Honor pleases, counsel is getting back to the previous conference where his clients were not present. It is quite immaterial what purpose Mr. Heller had at the time that he arranged the second conference.

1628

The Court: I don't know, whatever took place on the 18th is interesting, the other I don't think is.

Q. Did I say to you on the 18th, Mr. Peterson, that my clients wished to know if during certain weeks, if they sustained losses would they nevertheless have to pay the assessment. Was such a question asked you and did you give some answer? A. I don't recall the question being put quite that way.

1629

Q. But somebody spoke to you about the paying of assessments? A. Yes.

Q. And was something said to you that in the event that a firm has a loss during that week, will they nevertheless have to pay the assessment? A. You stated your firm had had losses.

Q. Did I ask you if it would be necessary nevertheless to pay the assessment?

Mr. Rice: Now if your Honor pleases——

1630 The Court: Just a minute, this is on the 18th. He is entitled to the whole conversation if he wants it.

Q. Isn't that correct? A. What is correct?

Q. Didn't you say it would be necessary? A. I think I recall saying about that if we were going to have a Code in this industry it would be necessary for everybody in the industry to pay the assessment.

Q. Whether they had a loss or not? A. Of
1631 course we would not know whether they had sustained a loss.

Q. But you said whether they had a loss or not? A. No.

Q. Did I ask you that question? A. Yes, and I said if we were going to have a Code in the industry everybody in the industry must pay the assessment.

Q. Nothing was said about a loss? A. Yes, you spoke at great length about that.

Q. Didn't I tell you that was one of the purposes that I wanted the Schechters to meet you
1632 on the 18th? A. This was the 18th.

Q. Well, didn't I tell you that that one of the purposes that I wanted the Schechters to meet you and why I brought them there? A. I don't recall that.

Q. Do you remember toward the end of the conference a suggestion by me that I felt that they should file reports and pay assessments? A. You asked me if you thought I should advise you to advise them to do it. I said that they were paying you, not me, for your services.

Q. See if you can answer my question; did you hear me say that I would advise my clients to file reports and pay assessments, did you hear me say that? A. That was not all you said.

1633

The Court: No, did you hear him say that?

The Witness: In connection with a further sentence, your Honor.

Q. Did I say that? A. Yes.

Q. And did I say to you that I was in sympathy with the Administration policy in Washington? A. Yes, you said that.

Q. And did I say to you wherever possible to help conditions I am for the Government? A. That's right.

1634

Q. And I made an appointment with you for the 18th, did I not? A. Yes.

Q. And you had someone in your office from Washington—Mr. McDonald—this gentleman right here behind Mr. Rice? A. Yes, he was there.

Q. And you had two attorneys from the Code Authority present? A. They are in the office all the time,

Q. You called them in the conference? A. Yes.

Q. Didn't you tell me that before I say anything you want everybody to sit in the conference? A. Yes, we generally do that. Mr. Wechsler of the N. R. A. was there and somebody from the slaughter house group.

1635

Mr. Rice: Now if your Honor pleases, I believe that counsel will agree that Mr. McDonald was not present.

The Court: I don't know anything about that. He is talking about the 18th, and if the witness doesn't know I don't know.

Q. Isn't that correct? A. Isn't what correct?

1636 Q. All those gentlemen were called in by you into this conference? A. That's right.

Q. Do you remember making this statement at the conference; if you want to file a report you can but the entire matter is in the hands of Washington, did you say that? A. I did not.

Q. Did your counsel say that? A. No.

Q. Did your counsel say that? A. He did not.

Q. He did not say that? A. No.

Q. You are positive about that? A. I am.

Q. He didn't say anything about it? A. He
1637 did not.

Q. Did he consult you the following day about a letter he received? A. Who?

Q. Mr. Loeb, one of your counsel. A. Are you asking me if Mr. Loeb or Mr. Dale said that?

Q. Either they or you. A. They did not.

Q. You are sure about that? A. I am.

Q. Did you see a letter, or was a letter called to your attention the day following the conference, by Mr. Loeb, from me?

Mr. Riee: If your Honor please, this
1638 is not at the conference where his clients were present.

Mr. Heller: This is as a result of the conference.

The Court: I think that is admissible.

Mr. Rice: All right.

Q. Were you handed a letter coming from me as attorney for the defendants by Mr. Loeb, do you remember that? A. I do not recall unless you refresh my mind about the letter.

Q. Let me show you a copy of the letter, letter dated June 19th, addresed to you. A. I received such a letter.

1639

Mr. Rice: May I see the letter?

Mr. Heller: Sure. Have you any objection if I offer this?

Mr. Rice: For what purpose.

Mr. Heller: For what it is worth.

Mr. Rice: I should like to have a statement from counsel showing that it has a purpose, indicating that it is relevant or material to any of the issues here.

Mr. Heller: The letter speaks for itself. I do not have to make any explanation.

1640

The Court: Let me look at it. I think he can offer that. That is confirming something that happened on the 18th.

Mr. Rice: It, of course, your Honor, is a self-serving declaration.

The Court: Of course it is, but it is supposed to be confirmatory of something that was said on the 18th?

Mr. Rice: Very well, then I think the response to that letter ought to be allowed in.

1641

The Court: Surely, if that letter is allowed in the answer to that will be allowed in, of course.

Mr. Heller: Of course.

The Court: That goes without saying.

(Marked Defendant's Exhibit in evidence.)

The Witness: Mr. Heller, in connection with that letter, that was following the conference of the 18th; at that conference was Mr. McDonald present?

Q. I do not remember, to be honest with you.

Mr. Heller: Were you present, Mr. McDonald?

1642

Mr. McDonald: Yes.

The Witness: Then I wish to correct my statement that at the previous conference Mr. McDonald said that the matter was now in the hands of Washington; at the conference of the 18th Mr. Loeb stated that.

Q. Then we have the statement now that a few days before the 18th, whenever this conference took place, he said the matter was in the
1643 hands of Washington? A. Had been sent to Washington.

Q. That is correct, thank you. When was the matter referred to Washington? A. That was handled by our attorneys; I do not know.

Q. The week before? A. I do not know.

Q. They work under your jurisdiction, do they not? A. Oh, yes.

Q. The attorneys? A. Yes.

Q. Have you records to show when the matter was referred to Washington?

1644

Mr. Rice: I do not see how it can be material to show in what manner the Department of Justice or Department of Agriculture proceeded.

The Court: It was referred before this time; that is sufficient.

Mr. Rice: We have no objection to disclosing our entire record, but it will simply waste the time of the Court.

Mr. Heller: All I want to know is the date. Give me the date and I will cease questioning with reference to that.

Mr. Rice: I do not know the date.

1645

The Witness: I might state that we are in daily touch with Washington about all matters that come up.

Q. I am concerned with this case only, not with all matters. A. We get in touch from day to day with Washington about all matters that come up, any case that might come up.

Q. You have a great many cases coming up in the poultry industry? A. We are discussing cases constantly.

1646

Q. You have a great many violations to handle since the Code came into being? A. Yes.

Q. Quite a number? A. Yes, indeed.

Q. As far as you know this is the first criminal prosecution in the poultry industry, is that correct? A. I believe it is, yes.

Q. And I take it it is your statement that the Code became operative and your office was first organized on May 17th, is that it? A. I think it was the 16th.

Q. May 16th? A. I believe it was the 16th, yes.

Q. Of 1934? A. That is right.

1647

Q. And on June 1st, I take it you sent out this accountant for an examination of the books, that is what he stated? A. That accountant?

Q. Yes. A. Who do you mean?

Q. The accountant that testified before. A. No. I didn't send him out. When you asked me if I do these things, we have rather a large office force, and for instance, all matters having to do with auditors going out to examine the books of various concerns who we think might have violated the Code or for any purpose, Mr. Galloway sends them out, and he had entire charge of the sending out of auditors to examine books during this period of time.

1648 Q. In other words, what the previous witness meant was he received his instructions from Mr. Galloway? A. That is it.

Q. As I understand, Mr. Galloway engaged these accountants? A. After he had consulted with me.

Q. Yes, and the reason for engaging these accountants was that they had had experience in different poultry sources? A. That is right.

Q. So the young man who testified that they had never audited the books of poultry concerns
1649 was mistaken? A. No, he didn't say that.

Q. Oh, yes, he did. A. Excuse me, if I may correct you on that. You asked him if they were now auditing books of poultry concerns, and he said no, but they did previously.

Q. Previous to when? A. Previous to the Code.

Q. They had audited books of poultry concerns? A. They had audited books previous to the Code; they were one of those firms that did that.

Q. For the poultry line? A. Of the poultry
1650 business.

Q. As I take it, from May 16th, for the first week, you say everyboy obeyed the Code, as far as you know? A. As far as I know.

Q. That would be May 23rd, is that correct? A. That is right.

Q. So that some time before June 16th, but after May 23rd, this matter was referred to Washington? A. Will you say that again, your dates?

(Reporter repeated the last question.)

A. Right.

Q. That is in a period of about three weeks? A. That is right.

Q. On June 8th did you send this—did your office, rather send this notice (handing a paper to the witness)? A. Yes.

Mr. Heller: I offer that in evidence.

Mr. Rice: Is it counsel's contention that this notice was sent to Joseph Schechter's place at 991 Rockaway Avenue, Brooklyn?

Mr. Heller: I contend no further than what the letter says. The letter speaks for 1652 itself.

Mr. Rice: If your Honor pleases, this letter is addressed to Samuel Schechter, 991 Rockaway Avenue, Brooklyn. Now, if it is counsel's position that this was sent to Joseph Schechter, who operates the market, or who did at that time operate the market at 991 Rockaway Avenue, then we have no objection whatever to it; otherwise I cannot see how it is material.

The Court: Who is Samuel Schechter? He is not in this case? 1653

Mr. Rice: He is not a defendant.

Mr. Heller: I am offering a letter sent by the Code Authority, it is on their stationery, to 991 Rockaway Avenue. It is claimed in the indictment that a corporation operated the market, 991 Rockaway Avenue, so I take it it is very material.

Mr. Rice: Then, will you concede, Mr. Heller, that Joseph Schechter was operating a market, a live poultry slaughter house market, at 991 Rockaway Avenue, under the name of Schechter Live Poultry Market, Inc.?

1654

Mr. Heller: I will concede this, that the lease and the health certificate is under the name of S. Schechter.

Mr. Rice: Yes.

Mr. Heller: And that the financial interest is that of Joseph Schechter.

Mr. Rice: Very good.

(Marked Defendants' Exhibit D in evidence.)

Mr. Rice: When you said "is" you meant "was at that time"?

1655

Mr. Heller: Was at that time.

Q. Now, I understood you to say—you read this letter, did you not? A. Yes.

Q. Dated June 8th, isn't it? A. That is right.

Q. I understood you to testify that as early as June 1st the Schechters told you that they did not intend to comply with the Code; is that correct? A. Joseph Schechter told me that.

Q. He told you that? A. He said not only that he had been violating the Code ever since it had been in existence, but it was his intention to con-

1656

tinue to do so.

Q. And the Code was operative since May 23rd? A. May 16th.

Q. And the first seven days everybody complied; that brings it up to the 23rd? A. As far as I know, everybody complied. I am not at all convinced that everybody did, but evidence would show that most people did.

Q. So that between the 23rd and June 1st, was the period of time he told you he did not comply and that he would never comply with the Code, is that correct? A. That is right.

Q. Do you know from your own knowledge whether or not the place at 991 Rockaway Ave-

nue was doing business during the month of May or during the month of June? A. What would you consider my own knowledge?

Q. Do you know? A. Did I see it? I never visited the place.

Q. Have you any records to show how much poultry was sold, if any, between May 23rd and July 2nd, 1934, at 991 Rockaway Avenue? A. It would indicate as of June 8th that the Schechters had violated the Code by not sending in weekly reports, so we certainly did not have them on June 8th. 1658

Q. You mean the letter addressed to S. Schechter? A. At that address.

Q. Is a request for a report and the payment of assessments, is that correct? A. From the people doing business at that address.

Q. Do you know whether they did any business? A. Personally, no.

Q. Have you any records to show that they did any business during that period of time? A. Statement——

Q. At that address? A. From Joseph and Alex Schechter. 1659

Q. He told you that he was doing business at 991 Rockaway Avenue? A. No, he said he was in the poultry business at those two addresses.

Q. Did he tell you how much poultry he sold?

Mr. Rice: Who is "he"?

Mr. Heller: Joseph Schechter.

Q. Did he tell you whether he sold any poultry from May 25th to July 2nd at 991 Rockaway Avenue? A. It was either Joseph or Alex.

The Court: July 2nd?

Mr. Heller: From May 23rd to July 2nd—June 16th, rather; that is the conference.

The Court: Surely.

The Witness: Now, after June 16th or before?

Q. Before.

Mr. Rice: Let us get this straight. Don't you mean June 18th?

1661 Mr. Heller: I will withdraw that question and rephrase it.

Q. Didn't he say to you—— A. Who?

Q. Joe Schechter, on June 18th, that due to an accident, 991 Rockaway Avenue was closed and wasn't doing any business? A. I recall his saying to me he had broken his leg and had temporarily gone out of business, but when he heard along early in May that there was going to be a Code he decided to open again because he thought everybody in the poultry business was going to be able to make a lot of money.

1662 Q. Did he tell you what day in May he opened the place? A. No.

Q. Do you know as a matter of fact whether or not he opened the place? A. No. You mean if I visited the place? I have not.

Q. Under the Code a dealer is to pay wholesale slaughter houses how much? A. Four cents a hundred pounds.

Q. For every hundred pounds he sells, is that correct?

Mr. Rice: There is no charge in the indictment as to an offense of failure to pay assessments. It is not part of this case.

The Court: Failure to make reports is.

Mr. Rice: Yes.

The Court: Failure to make reports, but he is trying to show they weren't doing any business and did not have anything to report.

Mr. Heller: That is correct.

Mr. Rice: Now, if your Honor please, he is questioning him about the amount of assessments.

The Court: I know; we are not concerned with that. 1664

Q. It is true that if a man does no business he can't file a report, is it not? A. Oh, yes, he can file a report that he is not doing any business.

Q. You call that a report? A. Yes, that would be a report.

Q. And you would assess the amount that is due on the basis of what he didn't do? A. We would assess him on the basis of that report; if he did no business at all, there would be nothing to pay. 1665

Q. There would be one dollar at least? A. No, not if he did no business.

Q. He would pay nothing? A. Pay nothing.

Q. If he did some business he would pay—— A. If he did any business——

Q. Four cents per hundred pounds? A. And a minimum of one dollar.

Q. Irrespective of whether he had lost or gained? A. That is right.

Q. Now, Mr. Peterson, you are being paid, are you not? A. I am.

Q. Who pays you? A. The Code Authority, the Industrial Advisory Committee.

1666 Q. In other words, the industry that is being governed by this Code, that is, the market people, commission merchants, they are the ones that pay you, is that correct? A. They are now; for a while we weren't collecting enough money to pay us.

Q. The people were not paying any money? A. That is true.

Q. And you are being paid by them for the work that you do in regulating their conduct and their business, is that correct? A. No, for
1667 enforcement of the Code.

Q. And your salary per year is what? A. $10,000.

Q. And you get $3,000 for expenses? A. That is right.

Q. Then your salary is $13,000? A. The total income I receive from this industry is $13,000 a year, if it is collected.

Q. And your job depends upon whether or not there is enough money, is that correct, coming in? A. No,——

1668 The Court: He said if it was collected.

Q. In other words, when no money comes in you get no salary? A. That is right.

Q. And you have two attorneys, have you not? A. No.

Q. You had two? A. We had two.

Q. What did you pay them? A. We paid them $6,000 a year.

Q. Each? A. No.

Q. Together? A. Together.

Q. And the industry pays that? A. The industry pays all bills of the Code Authority.

Q. That is, the commission merchants and the market people, is that correct? A. That is right.

Q. And you have an assistant to the Code Supervisor? A. That is right.

Q. Who is he? A. Mr. Garland Galloway.

Q. Is he being paid? A. Whenever the money is collected.

Q. How much does he get a year? A. He gets a hundred dollars a week.

Q. And—— A. The present total payroll and expense is about $45,000 a year.

Q. And you have stenographers in your office? A. Yes.

1670

Q. What do you pay them a week? A. Well, I am ashamed to tell you that we pay them as low as $25 a week.

Q. You think that is too little for a stenographer? A. For a really good stenographer, I think it is.

Q. How many stenographers have you? A. I think four.

Q. So the four stenographers get a hundred dollars a week? A. That is right.

Q. And that comes out of the industry if and when it is collected, by way of assessments? A. That is right.

1671

Q. And then you have clerical employees? A. No, only one.

Q. You have, your budget calls for four in number, does it not? A. Yes, but the budget—I believe you recall I said our budget was approved as a budget of eighty-eight thousand dollars, of which we are only using about half.

Q. But it calls for four clerks? A. The budget calls for a great many things that we haven't got, because we are not able to collect the money.

Q. And you have one clerk at present? A. One girl we pay $15 a week.

Q. And you have inspectors? A. Yes.

Q. How many? A. Five.

Q. The budget calls for ten? A. That is right.

Q. What does each inspector get? A. Twenty-five, thirty, and thirty-five dollars a week.

Q. What are the duties of those inspectors? A. To go from one slaughter house to another during the time of killing, during the time of operation of the slaughter house, to investigate it, to attempt to get compliance with the Code, and if they are unable to get compliance, they
1673 begin to collect evidence for a case to enforce the Code.

Q. And therefore I take it that the industry pays these inspectors for the purpose of investigating themselves as to whether or not violations occur? A. That is right.

Q. And the industry pays for that, is that right, if and when the money is collected? A. That is right.

Q. You have other expenses such as telephone and telegraph? A. That is right.

Q. The industry pays for that? A. When we
1674 collect it.

Q. Office equipment? A. No.

Q. The industry doesn't pay for that? A. No.

Q. The Government donates that? A. The Government donates that; the Government donates our rent, gas, light, heat and rent.

Q. Stationery supplies? A. No.

Q. The Government pays for that? A. No, the Government does not pay for that.

Q. That is paid for by the industry, if and when collected?

Mr. Rice: If your Honor please, I think we can save time by conceding that the

industry pays for everything in connection with the Code Authority; the witness has so testified, and I think we are wasting a lot of time. 7

Mr. Heller: I haven't complained that you have been wasting time. Give me a chance, Mr. Rice.

Mr. Rice: Very well, Mr. Heller.

Q. Among your duties, Mr. Peterson, is to study the problem of the method of arriving at the daily market price of poultry and to make recommendations to the Secretary for the establishment of a more efficient method of truly reflecting the supply and demand factors? A. That is one of our duties, yes. 1676

Q. Is it a fact that the present method is not very efficient? A. I wouldn't say that.

Q. Is there any particular reason for using the words "a more efficient method of truly reflecting supply and demand factors"? A. I think so.

Q. There is a reason for using that? A. Yes.

Q. Will you tell us the reason? A. We find from time to time when this market is made at 60th Street and Eleventh Avenue that the actual pure factors of supply and demand are not always allowed free function, and it is the desire of us of the Code Authority to make a long investigation over a long period to see if we can discover what factors enter in to keep the pure laws of supply and demand from functioning. 1677

Q. In other words, am I right in saying that up to the present time it is not very efficient? A. I didn't say that.

Q. Is it efficient? A. What do you mean by efficient?

Q. Is the system now used an efficient, accurate system? A. Do you mean does it actually reflect supply and demand?

Q. Yes. A. Some days it does.

Q. And others it does not? A. Yes.

Q. And that is the purpose for this provision in the Code? A. That is right.

Q. Is it your function to establish a Labor Advisory Committee? A. That is right.

Q. And additional advisory committees as may be necessary? A. Yes.

1679 Q. Have you heard of a Compliance Board as part of the Industrial National Recovery Act? A. You mean the National Recovery Act?

Q. Yes. A. Yes.

Q. There is such a thing as a Compliance Board? A. Yes.

Q. In other words when a violation takes place notice is sent for a hearing, is that correct? A. I haven't anything to do with the N. R. A. Compliance Board.

Q. But you say there is such a Board? A. There is such a Board.

1680 Q. Code supervisors report certain violations to the Compliance Board? A. I do not know of any Code that has a code supervisor except the Poultry Code.

Q. All other industries have no code supervisor? A. I do not know of any other that has one.

Q. Would you say that there are others that have not?

The Court: He said he didn't know.

The Witness: I do not know of any that has.

1681

Q. You do not know either way? A. As far as I know the Live Poultry Code is the only code in existence in the United States that has a code supervisor in charge of the Code.

Q. Is it the duty then of the code supervisor to assume sole function, to determine whether a man violates the Code or not? A. No.

Q. Is there any discretion in the matter? A. Yes.

Q. What is that? A. What is what?

Q. What is necessary besides prosecution, what can be done besides criminal prosecution in enforcing the Code? 1682.

Mr. Rice: If your Honor please, I do not see what the remedy has to do with this case.

The Court: What has it to do with it? They have a code supervisor, that is all; whether he is necessary or not does not mean anything in this prosecution.

Mr. Heller: I have read to the witness subdivision 10 of the Administration Page which provides for advisory committees. 1683

The Court: All right.

Mr. Heller: I wish to question him as to the purpose and function of these advisory committees.

The Court: But you were asking him about the necessity for code supervisors, that hasn't anything to do with it.

Mr. Heller: I asked him first about the Compliance Board, and he said there was none in this industry——

The Witness: No, I didn't say that.

Q. Is there a Compliance Board in this poultry industry? A. Yes, indeed there is.

Q. Will you explain what this Compliance Board is? A. When we get word from a member of the industry or any other source that any member of the industry is not living up to the Code our first procedure is to ask, our procedure is to go to the place of business and examine the situation and see if this person is violating the Code. If we are satisfied after having gone over there on half a dozen visits that this person is a flagrant violator, our usual procedure is to write
1685 a letter to that person asking them to call at our office to discuss the matter of the violation or the alleged violation. If we find that a conference of that kind is of no account and the person continues to violate, we have the Investigating Division of the Agricultural Adjustment Administration begin an investigation of the concern, to accumulate evidence for a case. Now I may say that on May 16th, when the Code became operative, we had not set up, the machinery had not been set up for such a Compliance Board. It did not get under way until some time in July
1686 because of the multitudinous duties that came on the Code Authority and, therefore, we were unable to get the Compliance Board operating as such.

Q. Who is on this Compliance Board? A. Up to the present time our attorneys and myself act in that capacity.

Q. In other words, when a violation comes in you send for the violator and ask him about the violation, why he doesn't comply? A. Talk over in as friendly a fashion, and in as intelligent a fashion as we can with this individual, that if he will comply with the Code, and usually the people we send for are what we find easy, you might

call, the ringleader of the violators in any area. We find in many sections at least 85 per cent of the industry wants to live up to the Code, or maybe 95 per cent. We get calls, maybe a dozen in one morning, that a certain person is flagrantly violating the Code. We call them on the telephone, ask them, "Please kill straight," or whatever it might be that they are violating. If we get nothing, we write them a letter and ask them to come in.

Q. In this particular case did you hold such a 1688
hearing? A. No. As I said, this case—the case you are referring to is the Schechter case?

Q. Yes. A. Came up before we had set up such an arrangement.

Q. Did I understand you to say, Mr. Peterson, that the present Advisory Board consists of you and your counsel? A. No.

Q. Did you make that statement a minute ago? A. No, I did not.

The Court: Compliance Board.

The Witness: You just said Advisory Board. 1689

Q. No, Compliance Board. A. That is right.

Q. You had a counsel on May 23? A. Yes; we had two men then, we have one now.

Q. You had no difficulty in sending for them then? A. No. I said we had not set up that arrangement for handling our Code at that time.

Q. But the attorney had been on your payroll, hadn't he, as of May 23? A. I don't recall the date. I think he was on before that. You see, May 23—I believe you are referring to April 23, are you not?

Q. May 23. That is the date when you started to function, I take it? A. No, we started to function on May 16th.

Q. Excuse me. May 16 thereafter—June 2nd, take that date, for instance; the two attorneys were then in your employ, were they not? A. They were.

Q. You could have sent for them and given them an opportunity, couldn't you? A. Sent for who?

1691 Q. Sent for the Schechters and set it down for a hearing. A. Instead of sending for them, I talked to them on the telephone.

Q. Isn't it a fact that I arranged for a conference voluntarily? A. I talked to them on the telephone before that.

Q. Before June 1st? A. On June 1st.

Q. After June 1st? A. After a man said to me on the telephone that he has no intention whatever of living up to the Code, I see no occasion for calling him in and talking to him in a friendly fashion about living up to the Code.

1692 Q. Did you make an exception in this case? A. No.

Q. Of calling him on the phone? A. No.

Q. Is the procedure the same way now? A. No.

Q. You send for them? A. We send for them now.

Q. Take stenographic minutes? A. No.

Q. Have a talk with them in your office? A. That is right.

Q. You did not think it advisable to do it in this case? A. Or in several other cases where we have had flagrant violations. Where a man admits he violates the Code and he has no intention of living up to it, we do not send for him.

Q. And the Code was effective for two weeks, was it not? A. From May 16, to June 1st.

Q. And one week everybody complied to the best of your knowledge? A. To the best of my knowledge.

Q. So that the Code, or the violations alleged to have been existing existed for one week? A. Probably; might have been two weeks.

Q. So after your telephone conversation you were convinced they were not going to comply, is that correct? A. Yes.

Q. You did not send for them, did you? A. 1694
No.

Q. To your office? A. No.

Q. You did not think that they had a right to find out whether or not they were permitted to let someone——

Mr. Rice: I object.

The Court: Sustained.

Mr. Heller: Exception.

Q. Instead of sending for them you started to accumulate evidence against them for the pur- 1695
pose of prosecution? A. Particularly after he said he had no intention of living up to the Code.

Q. You immediately went to get evidence against them, is that correct? A. Yes, not——

Q. This Code was only in the formative stage?

Mr. Rice: Just a minute. The witness wanted to qualify his last answer.

The Court: Yes, he may finish his answer.

The Witness: We had several people who gave us the same answer, somewhat

1696 the same answer, and we didn't always send for them.

Q. You did not send that complaint down to Washington for the purpose of criminal prosecution? A. Which complaint?

Q. People who told you, gave you the same answer over the telephone. A. Nobody gave us the same answer. The same type of answer.

Q. Same effect. You did not send those complaints on down to Washington? A. Yes, I think
1697 some of them have gone down to Washington.

Q. Has any criminal prosecution ensued? A. I don't know yet.

Q. Didn't you make a statement to the industry that you intended to make an example by picking on the Schechters? A. No, I did not.

Q. Are you sure of that? A. I am sure.

Q. You never discussed the Schechter matter with any of the commission merchants? A. Oh, yes, indeed.

Q. You did, didn't you? A. Discussed the Schechter matter.

1698 Q. And the Code was only in its early stage on June 1st, was it not? A. Well, it went into effect on May 16th.

Q. But it started to operate on May 16? A. That is right.

Q. And from May 16th to the 23rd, as I understand, most people complied so we had one week of the Code, is that correct? A. What do you mean, we had one week of the Code?

Q. From May 16th to June 1st was two weeks, wasn't it? A. Yes—no, May 16 to June 23rd is more than two weeks.

Q. May 16th to May 23rd. A. That is one week.

Q. And from May 23rd to June 1st was one week? A. That is right.

Q. You are required to study the industry and make suggestions for changes, and so forth, isn't that correct? A. No, I am hired really to enforce the Code.

Q. Aren't you also required to study the operation of the provisions of the Code? A. Yes.

Q. Make suggestions to Washington? A. Yes, that is right.

Q. And it will take some time before you can 1700
ascertain whether some of the provisions are practical or not? A. Yes.

Q. It will be necessary sometimes to ascertain whether additional provisions are necessary? A. That is right.

Q. That takes a little time, doesn't it? A. That is true.

Q. You did not take sufficient time in this case to see whether the Code should be amended or not before you made the complaint with regard to the Schechters to Washington, did you? A. I might answer that by saying that by the end 1701
of the first week I suppose the Code Authority received 500 congratulations for the success of the Code because everybody, practically, was living up to it, but they said at that time, a great many people in the industry, if the Schechters and other people of that calibre will live up to the Code, we won't all have to start violating it.

Q. Will you tell me now how many complaints you received that the Schechters were violating the Code, the dates, the names of the persons and their addresses? A. I haven't——

Q. From May 23rd. A. I haven't the slightest idea how many. They were so many I made no effort to keep track of them.

1702 Q. Can you name any? Name five members of the industry that filed complaints with you that the Schechters were violating the Code. A. Every competitor of Mr. Schechter, in the district in Brooklyn in which he operates, made a complaint.

Q. Every competitor? A. That is as available to you as much as it is to me.

Q. You say every competitor made a complaint? A. Every person in the slaughter house business is a competitor.

1703 Q. And many others make complaints of other people? A. Nothing to compare with the complaints made against your clients.

Q. In other words, from May 23rd to June 1st all of the complaints came in that the Schechters were violating the Code, is that it? A. No, I did not say that.

Q. How many came in? A. Oh, dozens of them.

Q. How many dealers are there in his neighborhood? A. I haven't any idea.

Q. Don't you know how many commission merchants are in the Borough of Brooklyn? A.

1704 I think there is one——

Q. Wholesale—— A. There is one commission merchant in Brooklyn.

Q. Wholesale slaughter houses. A. I don't know offhand.

Q. Have you any record? A. At the office we have very accurate records.

Q. Do the records show how many wholesale slaughter houses are in the vicinity of 858 East 52nd Street? A. We have a pin map that shows every slaughter house in the city.

Q. Will you produce it on Monday? A. It is pretty large, about the size of that wall.

1705

Q. Will you produce your records to show just how many slaughter houses are within the vicinity of 858 East 52nd Street? A. I will be glad to give you the list of all the slaughter houses in Brooklyn, if you want to.

Q. Very well.

Mr. Heller: I will ask your Honor for an adjournment, and ask him to bring those records on Monday.

The Court: He says he will give you a list of everybody in Brooklyn and you

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can determine——

Mr. Heller: All right, with their addresses, and I will continue my cross examination on Monday.

The Court: He says he will give you a list of every slaughter house in Brooklyn and its address.

Mr. Miller: That is right. I wish to ask him about that. I want to cross examine about it.

The Court: We are going to stop now.

Mr. Heller: I mean, I want him to

1707

bring them here on Monday.

The Court: You can bring it on Monday, can't you?

The Witness: Yes, sir.

The Court: Gentlemen, do not allow anybody to talk to you about the case, do not discuss it between yourselves and do not form any opinion until it is finally submitted to you. Be back Monday morning at ten o'clock.

(Adjourned to Monday, October 22, 1934, at 10:00 A. M.)

1708 *Leroy Peterson—By Govt.—Cross*

Brooklyn, N. Y., October 22, 1934.

(Met pursuant to adjournment at 10:00 A. M.; present as before.)

LEROY PETERSON resumes the stand:

Cross examination (continued) by Mr. Heller:

Q. Mr. Peterson, did I understand you to say that you have now inaugurated some sort of Conciliation Board? A. A what?

1709 Q. Some sort of Conciliation Board, or Compliance Board? A. Compliance.

Q. Consisting of yourself and your counsel? A. That is right.

Q. And did I understand you to say the last time that you hold informal hearings, without taking stenographic notes of the complaints? A. No, no.

Q. You didn't say that? A. Oh, no, we don't take notes of those meetings, but we have the complaint on file before we call the meeting.

Q. And then you merely talk to the man and
1710 ask him to comply? A. Well, in a friendly way go over the whole situation with him, explaining how he is violating the Code, and in as helpful a manner as possible show him how he can comply.

Q. For how long have you been doing that? A. I believe we started some time in July.

Q. July 1st? A. I say, some time in July.

Q. You were appointed on April 16, 1934? A. April 23, 1934.

Q. And your counsel was appointed on April 23, 1934? A. No, they were appointed between April 23 and May 16.

1711

Q. And you had one month within which to organize, is that correct? A. No, we had about three weeks.

Q. From April 23 to May 16? A. That is right.

Q. And the quarters were given to you by the Government? A. Yes, in the Federal Building.

Q. So that the only thing left to organize was the staff? A. No, we had to print forms. We first of all had to devise the forms, print them, get a staff together, of course, get telephones in, arrange for—well, you know all the things you have to arrange when you open an office. Apparently there may not seem to be many details until you start to do it, but to do it, you know, as well as I do, probably, what it requires to open an office.

1712

Q. Did you know Joseph Schechter prior to June 1, 1934? A. I had seen him.

Q. Personally? A. Yes.

Q. Spoken to him before June 1? A. I don't believe so, no.

Q. Wasn't the first time that you became acquainted with Joe Schechter the time when I brought him up to your office on June 18? A. I think that is the first time I met him, that is, formally met him.

1713

Q. Do I understand you to say that on June 1st, after that telephone conversation you had with Joe Schechter, you were convinced that they intended to violate the law, is that correct? A. Well, Joe Schechter told me that he intended to violate the law. I mean, it was in my opinion. He clearly stated that he intended to do so.

1714 Q. You there and then came to the conclusion that he was going to violate the law? A. I took his word for it.

Q. Without bringing him up for a hearing or the filing of charges? A. Well, when a man says a thing as distinctly as that, as distinctly as he did, he means what he says.

Q. Without having seen him before that time? A. The evidences of the violations were so clear, that his statement simply conformed to the facts.

1715 Q. Now you were present the bookkeeper testified the other day? A. Yes.

Q. At that time the non-compliances consisted of his refusal to show the books? A. Oh, no.

Q. Other complaints? A. Yes, we had innumerable complaints.

Q. About 400 did you say? A. No, I said that there are about 400 slaughter houses.

Q. Well, how many complaints did you receive after May 23rd? A. As I said Friday, innumerable, I haven't been able to check up how many.

Q. Have you made a list of them? A. I have prepared here a list of the slaughter houses in

1716 Brooklyn that you asked me for Friday.

Q. No, did you make a list of all the complaints as they came in the office? A. No.

Q. Well, did they come in over the telephone? A. From the market over the telephone, by telegraph and by personal solicitation.

Q. And you had such records on file? A. Oh, no. I discussed it since Friday with our men and they all recall that the complaints——

Q. Never mind what they all recall; from your personal knowledge, how many complaints did you receive personally? A. So many that I did not attempt to keep track of them.

Q. Did you receive any personally? A. Oh, yes.

Q. Personally? A. Well, people wanted to talk to me on the telephone. They said that Joe Schechter is violating the Code, what are you going to do about it?

Q. Do you have their names? A. No.

Q. You claim those complaints were from competitors of Mr. Schechter? A. People in the slaughter house business which by the very nature of things I presume are competitors.

1718

Q. Did you hear Mr. Tottis say that strictly speaking there are 50 wholesale slaughter houses? A. Yes, but I think he overstated it—I wonder if you understand what he means by that.

Q. There are less than 50 strictly wholesale slaughter houses? A. I believe that is correct.

Q. Now will you give me the names and addresses of the nearest competitor or competitors of Joseph Schechter? A. I haven't any idea.

Q. Isn't it a fact that the nearest competitor is two and one-half miles away from 858 East 52nd Street, Brooklyn? A. I haven't the slightest idea.

1719

Q. You are the Code Authority supervisor, are you not? A. Yes, sir, I am.

Q. Have you made it your business to know or investigate as to the location of the various competitors of Joseph Schechter? A. Not of him any more than anybody else.

Q. Didn't I please ask you to get this information for me for today? A. You asked me to get a list of the slaughter houses in Brooklyn.

Q. I asked you to get me the names and addresses of the nearest competitors of Joseph Schechter. A. I don't recall you asking me that.

1720 The Court: Well, if he gives you all of them he will be sure to give you the nearest one.

Mr. Heller: But you cannot tell from the addresses, your Honor.

The Court: He does not know, he says. There are the addresses of all of them and you can easily prove which is the nearest one.

Mr. Rice: I believe your Honor will recall counsel did ask Mr. Peterson to
1721 produce a list of all the slaughter houses, wholesale and retail.

The Court: He says so and that he has them. He may not know Brooklyn as well as some of the rest.

Q. How many wholesale slaughter houses are there in Brooklyn? A. I don't know.

Q. Have you a list of all the wholesale slaughter houses in the Borough of Brooklyn, wholesale slaughter houses, wholesale and retail? A. I have a list of all the slaughter houses.

1722 Q. Well, are they distinguished in the list? A. No.

Q. Can you produce a list of the wholesale, pure and simple wholesale slaughter houses? A. Yes, indeed, but before I produce that I want to be clear as to what you want, whether you know exactly what you want.

Q. Now do you understand what I am asking you for? A. I am not sure that you do.

Q. Well, when I get on the stand then you can question me. A. Well, please do not misunderstand me. It is very difficult to distinguish what a wholesale slaughter house and what a whole-

sale and retail slaughter house is and what a retail slaughter house is. 1723

Q. Did you listen to Mr. Tottis' testimony? A. Yes, indeed.

Q. And did you hear him say that a wholesale slaughter house sells strictly wholesale? A. Yes.

Q. And did you hear him say that a wholesale and retail slaughter house sells wholesale and to retail customers? A. Yes.

Q. That is the distinction, isn't it? A. No, that is not the distinction in the trade.

Q. What is your idea of what is a wholesale slaughter house and what is a wholesale retail slaughter house? A. Almost exactly the same as Mr. Tottis, but I want to make clear that there are practically no wholesalers who do not at times sell a little retail. We do not distinguish them as wholesale, retail. We have had difficulty in trying to decide what is strictly wholesale. Is a wholesale man a man that does twenty thousand pounds of business wholesale and two thousand pounds of business retail—— 1724

Q. What was your understanding on June 1st, Mr. Peterson? A. The Code requires that a wholesale slaughter house shall be considered a wholesale slaughter house who does a business of 3,000 pounds or more of slaughtered poultry for resale. We think that is incorrect. We think that the definition should be nearer to 2,000 pounds. That is a matter of opinion. 1725

Q. Now, you are governed by the Code? A. In Code matters, certainly.

Q. And the Code says that a wholesaler shall be a person who sells three thousand pounds or more, so then we are correct in assuming that that is the proper definition of a wholesale

slaughter house? A. No, that is the Code definition.

Q. You mean you disregard what the Code provides? A. Well, we follow the Code, but we may made an amendment to the Code.

Q. But no amendment has been made up to today? A. No.

Q. Therefore we are to understand that a person who sells 3,000 pounds of poultry is considered a wholesale slaughter house? A. No, that slaughters 3,000 pounds or more for resale.

1727 Q. Have you a list showing just how many slaughter houses in the vicinity of 858 East 52nd Street slaughter 3,000 pounds or more for resale? A. We have the records at the office.

Q. And will you be good enough to get them for me? A. Yes, indeed.

Q. Do you know how many colored people live in the vicinity of 858 East 52nd Street? A. I do not.

Q. Isn't it a fact that there isn't one colored person that lives in the vicinity? A. I don't know.

1728 Q. Now, coming back to June 18th, was there a stenographer present while I was there with all the people that you mentioned, taking notes while we had this conference? A. There was a stenographer present, but I don't recall whether she took any notes.

Q. As a matter of fact, no notes were taken at that time while I was there? A. Which conference are you referring to?

Q. June 18th. A. I am not sure whether Mr. Dale or Mr. Loeb made notes during the conference or not.

Q. Did I understand you to say that a memorandum was prepared by your counsel, which

memorandum you used to refresh your recollection? A. Yes.

Q. And that was after the conference was over? A. Less than five minutes after.

Q. You left the conference, didn't you? A. During the conference I did, and then I came back at the end.

Q. Were you present at the end while I was there? A. I was in and out several times and I frankly do not recall whether I was there at the actual end or not. I had several other matters to attend to. I was called away two or three 1730 times.

Q. Isn't it a fact that Mr. Loeb took up with you the question of filing reports as to days after this conference ended? A. I don't know whether it was two days or not. I know that we discussed it right away.

Q. Immediately after you received my letter? A. I don't think it was immediately after; it was at that time.

Q. Can you tell us the reason for making a memorandum of what transpired on June 18th, 1731 after I left? A. Quite often on conferences where there are counsel present we find it is advisable to make notes of those conferences.

Q. I understand you to say that the matter had been referred to Washington prior to June 18th. A. I did not say so, no.

Q. But counsel conceded that? A. Yes.

Q. You had nothing to do with the matter being referred to Washington? A. What do you mean?

Q. Hadn't you filed reports of the situation? A. I do not actually mail them.

Q. Your office, I mean? A. Our office takes care of such matters.

Q. You had filed certain memoranda at the Washington office? A. I believe it was in the shape of letters and telephone conversations.

Q. And the fact was that the idea of making these notes was to build up a case against the Schechters, isn't that a fact?

Mr. Rice: I do not see how it is relevant to go into the question as to just how
1733 this case was built up.

Mr. Heller: I will show in a few minutes that it is. I ask the question, subject to connection.

Mr. Rice: We have nothing to conceal whatever, but I do not think that this is necessary.

The Court: I will let him answer.

A. I will say no.

Q. Didn't you ask me to tell you the connection of each of the Schechters with each of the
1734 corporations at this conference on June 18th? A. I didn't; I believe Mr. Loeb did.

Q. And I gave the answer? A. I believe you answered it, yes.

Q. Do you remember Mr. Loeb in your presence asking me what Joseph Schechter was, what his connection was with the 858 premises? A. I believe he did.

Q. Do you remember my giving an answer that Joseph Schechter guaranteed the accounts of that address? A. No; you enlarged on that considerably, I think.

Q. Wasn't it to that effect? A. I think you enlarged considerably on it. I believe you said

enlarging on that that Joseph Schechter was the head of Schechter Brothers.

Q. Did I say that he had guaranteed the accounts of 858? A. I believe you said he guaranteed all accounts.

Q. Did I tell you he had a separate place of business at 991 Rockaway Avenue? A. I do not recall in detail whether you said that or not.

Q. Did you tell me that you were going to take notes prior to the conference of June 18th? A. Did I tell you?

1736

Q. Yes. A. I do not recall having said that to you.

Q. Do you know of your own knowledge that an examination was had of the Schechter Brothers books shortly after I left your office? A. I know the Schechter books were examined, yes.

Q. And you remember that two men from the Government were there sitting in their place inspecting the records of Schechter Brothers? A. I know the Schechter books were examined by the Government officials.

1737

Q. And a complete examination was made, isn't that correct? A. I gather we got the information that we desired. I think they took notes particularly of the poundage, of the volume of business done by the Schechters the first week of the Code, and I believe, Mr. Heller, that this poundage jumped that first week of the Code from 24,000 pounds to, from 32,000 pounds to 48,000 pounds, the first week of the Code.

Q. We will show you the books, so it is useless for you to speculate. A. It isn't a question of speculation; I thought you might be interested in knowing that.

1738 Q. We are interested and the jury are interested in the real facts, and we will show what the books show.

Now, Mr. Peterson, have you ever heard of Bulletin No. 7, Manual for the Adjustment of Complaints? A. Of what organization?

Q. Of the N. R. A.? A. No.

Q. Never heard of it? A. I have heard of it, yes, indeed.

Q. But I understood you to say on your direct
1739 examination that you were connected with a great many codes in Washington prior to becoming the Code Administrator of this industry? A. No, I said that I had sat on the hearings of a great many codes, not being connected with any of them.

Q. You had an opportunity to familiarize yourself with the methods of enforcement and adjustment of the National Industrial Recovery Act? A. I think it might be well to explain to you that the codes that I sat on were not strictly N. R. A. codes; they were codes that the N. R. A. had assigned under direction of General Johnson
1740 to Secretary Wallace, and the enforcement of the agricultural codes or codes under the Agricultural Adjustment Administration are handled in an entirely different manner than codes under the N. R. A.

Q. Do you know from your own knowledge that there are certain rules and regulations which guide and govern Code Administrators? A. Having to do with N. R. A. codes?

Q. Is this an N. R. A. code? A. This is an N. R. A.-A. A. A. Code.

Q. But it is part of the N. R. A. Code, is it? A. I think I just explained that, that it is strictly speaking a code under the direction of the Secretary of Agriculture.

1741

Q. It is a code nevertheless, isn't that right? A. It is a code.

Q. It is enacted by Congress because of the National Industrial Recovery Act, is that right? A. That is right.

Q. That gives it life and being, isn't that right? A. That is right.

Q. As an administrator did you familiarize yourself with the requirements contained in the Manual for the Adjustment of Complaints by directors and code authorities? A. Yes.

1742

Q. Have you read t? A. I have read it almost entirely, but may I ask——

Q. We will come to that in just a moment. A. Yes, sir.

Q. I show you this piece of paper and ask you if you ever saw that in your life? A. I do not believe I have ever seen a copy of such a——

Q. You never saw it? A. No.

Mr. Heller: Have you any objection if I offer it?

Mr. Rice: I haven't the slightest idea of what it is.

1743

Mr. Heller: It is a Government document.

Mr. Rice: If your Honor please, I do not see that this has the remotest bearing on this case. I do not see any purpose in cluttering up the record with a lot of rules and regulations on the part of the N. R. A. It isn't established that this particular rule or regulation or advice, really, is applicable to the Live Poultry Code, and apparently it is not, since the Code Supervisor doesn't know about it.

1744 *Leroy Peterson—By Govt.—Cross*

Mr. Heller: That doesn't follow, Judge.

Mr. Rice: At least we should have some affirmative proof showing that it is connected.

Mr. Heller: Now, if it please your Honor, as Code Supervisor, he is bound by the rules and regulations, and he is bound by the Manual which provides and specifies—this is part of the manual——

Mr. Rice: Let us find out whether he is bound by it or not, let us find out
1745 whether he is bound by this document.

The Court: That doesn't mean anything; I do not know what that is.

Mr. Heller: I will offer the entire manual in evidence.

Mr. Rice: I do not know what this manual is.

Mr. Rice: I haven't had an opportunity to examine this, your Honor, but it seems to me that as a condition precedent to offering it it must be shown that it has
1746 some bearing upon the issues of this case, or, at least, it must be shown that it applies to the Live Poultry Code, which the Code Supervisor——

The Court: There is no evidence as to that.

Mr. Heller: This applies to all the Codes. It speaks for itself.

Mr. Rice: Let us have some proof on that.

The Court: This witness has already said that this Code is under the Secretary of Agriculture and not generally under the N. R. A. That is all the evidence

1747

we have. It may happen that you have other evidence.

Mr. Heller: It has been testified that this Code came into existence by virtue——

The Court: He has already testified, as I say to you, flatly, that the Code that he is now attempting to enforce is one that is under the Secretary of Agriculture and not generally under the N. R. A. That is his testimony. If you want to controvert that, you will have to call somebody.

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Mr. Heller: I respectfully except.

The Court: That does not mean that you cannot offer it; it means that there must be some foundation laid. You haven't it with him because he has said to the contrary.

The Court: We will take a recess for ten or fifteen minutes. Gentlemen of the jury, do not discuss this case among yourselves, do not permit anyone to discuss it with you, and do not form any opinion until it is finally submitted to you. Please step out because I want to take up some other criminal business.

1749

(Jury leaves the room.)

(Jury returns after the recess.)

LEROY PETERSON, resumes the stand:

Cross examination by Mr. Heller (continued):

Q. Do you know Mr. Frenzel? A. I do.

Q. Do you know a Mr. Forsmith? A. Yes.

1750 Q. Do you know what connection Mr. Frenzel has with the Slaughter House Association? A. He hasn't any as far as I know.

Q. Was he at any time the president thereof? A. He was.

Q. Do you know whether he still is?

Mr. Rice: If your Honor please, I do not know what the character of Mr. Frenzel, or the relationship between Frenzel and Forsmith has to do with any of the
1751 issues of this case, and from what I know of the situation, I think it is very probable that counsel will establish no such relationship. Therefore, I think he should be called upon to state what purpose he has in mind

The Court: I do not know. What was the question?

(Reporter repeated questions and answers as follows: "Q. Do you know what connection Mr. Frenzel has with the Slaughter House Association? A. He
1752 hasn't any as far as I know. Q. Was he at any time the president thereof? A. He was. Q. Do you know whether he still is?")

Mr. Rice: I think your Honor excluded some questions about Frenzel the other day on that theory.

The Court: I do not know what it is. I will let him answer.

The Witness: May I hear the question?

(The reporter repeated the last question.)

A. He is not.

1753

Q. Do you know how many times he was up to your office during the month of June? A. A great many times.

The Court: What has that to do with this?

Mr. Heller: I will connect it.

The Court: You will have to show some reason for it.

Mr. Heller: I do not like to state the reason because the witness will know what I am driving at.

1754

The Court: All right; but I do not see what connection it has with this case.

Mr. Heller: Well, make it subject to connection.

Mr. Rice: I think the purpose might be stated to your Honor personally.

The Court: Oh, no. Everything has to be in the presence of the defendants.

Mr. Rice: Very well.

The Court: If you will state to me as lawyers that there is some connection, I will take it subject to connection.

1755

Mr. Heller: That is my purpose, your Honor.

The Court: But understand me, I expect you to make good.

Q. You said very many times. A. Yes, a great many times, during June and July.

Q. Did he make any complaint about Mr. Joseph Schechter?

The Court: I do not think that any officer is obliged to give the names of people who make complaints to him; that has never been held to be so, otherwise many

1756 people would not register complaints with officers. The only complaints that have to be open and above are complaints that are made in writing, otherwise you can inquire into many things. I do not think that he has to answer that.

Mr. Heller: The rules provide definitely with reference to the enforcement of the N. R. A.

The Court: Not any different than anything else. No officer is obliged to

1757 give the names of everybody that gives him information, that is not so. He may get his information where he may, but he cannot testify to the information that he gets, that is not evidence.

Mr. Heller: If your Honor will permit me at this time to offer the rules in evidence, your Honor will see that the rules are to the contrary.

The Court: Show me the rules.

Mr. Rice: I think, if your Honor please, that just two questions to this wit-

1758 ness will elicit the facts that this manual does not apply.

The Court: He has already said so. If he talked to him about these people and others in connection therewith all right, if he talked to them generally about the N. R. A. we are not at all concerned.

Mr. Heller: I am concerned with reference to these defendants first.

The Court: Yes, but he might have talked to him about everything else in the world.

Mr. Heller: Will your Honor permit the reporter to repeat my question?

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The Court: Yes, read it.

(Last question read by the stenographer.)

The Court: All right, I will let that go in.

Q. Did he? A. I do not think it would be fair, since there are so many slaughter house men in the audience, to publicly say who made the complaint about any other slaughter house. I feel that the whole effect of the Code would be defeated if we would have to come into a public place and make such a statement.

1760

The Court: Then you don't have to. You may have your exception, Mr. Heller.

Mr. Heller: Exception.

Q. Do you know where Mr. Frenzel's place of business is? A. I know it is in Brooklyn.

Q. Do you know whether or not it is anywhere near 198 Rockaway Avenue?

Mr. Rice: Now if your Honor pleases, counsel is pursuing his questioning; he is trying to circumvent your Honor's ruling.

1761

The Court: I don't know that.

Q. Do you know? A. I don't know, I know that he is in Brooklyn.

Mr. Heller: Now, your Honor, at this time with reference to this manual, if your Honor will look at the indictment, the indictment charges a violation of the Industry Act itself and then the trade practices.

Now, if your Honor will examine Government's Exhibit 26 you will find that it

1762 is part of the National Recovery Administration—this Code.

The Court: That may well be, but this gentleman has already testified—anyhow, I don't see why I should go over it so many times and I am not going to. I have been over it three times. When you lay sufficient foundation then we will consider it.

1763 Q. I show you this book and I ask you whether you have ever read this? A. I have seen it, I do not think I have read it through fully because it does not apply to our Code. When I saw it, and saw that it did not apply to the Code I saw no need of making a study of it.

Q. Will you look at it again; look at the heading and I ask you now whether it refers to the Code Authority or does not? A. It refers to the N. R. A. Code Authorities. As I explained previously, our Code is N. R. A. and A. A. A. If you will look at page 3, Part 1 of the introduction——

1764 Q. Just a minute.

Mr. Rice: Why not let the witness finish.

The Court: You asked him to look at it and he did.

Q. When you say it is part of the N. R. A. and the A. A. A. do you mean it is under both? A. I do.

Q. And this part applies only to the N. R. A.? A. This applies, for the last four months applies to no part of our Code.

Q. Do you know that this was adopted in January of 1934? A. I don't know when it was adopted.

1765

Q. Do you know whether it was the practice under your Code to hold preliminary hearings? A. I don't know what you mean by that; I established all the practices.

Q. You personally? A. As Code Supervisor.

Q. Did you establish any practice for a personal hearing? A. I believe we went into that in some detail.

Q. Did you establish it in the month of June?

Mr. Rice: If your Honor pleases, this has been gone into two or three times.

1766

The Court: I so understood it. The gentleman has told you fully that it does not apply. That is the end of that so far as we are concerned.

Q. Did you establish any practice for any hearing during the early part of June, 1934, with reference to complaints?

Mr. Rice: Counsel went into this fully last Friday. He went into it again this morning. This is the third effort of his to get into this topic. It seems to me it has been fully covered and we are just wasting time.

1767

The Court: Yes, as far as this witness is concerned because this witness said only two minutes ago that it does not apply.

Mr. Heller: I will take an exception to your Honor's ruling. That is all.

Redirect examination by Mr. Rice:

Q. Mr. Peterson, I believe you stated on cross examination that there are wholesale slaughter

1768 house markets and there are also combination wholesale and retail slaughter house markets? A. That's right.

Q. Is that true? A. That's true.

Q. Approximately how many slaughter house markets are there in Greater New York which are either exclusively wholesale or wholesale and retail? A. The reason that I hesitate is it is difficult to know under what interpretation one wants the classification between wholesale and retail made.

1769 Q. I mean grouping the two groups together —how many would there be in the aggregate? A. I should say in the five boroughs there are between 150 and 175 wholesale and wholesale-retail slaughter houses.

Q. Now you were asked by counsel for the defendants, last Friday, to produce a list of the slaughter house markets in the vicinity of the A. L. A. Schechter Poultry Corporation. A. Yes.

Q. Have you done so? A. I have.

Q. Will you produce the list? A. Here it is

1770 (producing list).

Q. You were again asked this morning by defense counsel to make up a list of those slaughter house markets in the vicinity of the A. L. A. Schechter Poultry Corporation Market which did at least 3,000 pounds of wholesale business per week? A. That is right.

Q. And would this list also cover that questioning? A. It would.

Q. It would answer that question, would it? A. Yes, sir.

Q. Fully? A. Yes, I should say fully, as fully as could be answered. I might add that the

mere fact that a slaughter house, either wholesale or wholesale-retail does not happen to be in the immediate vicinity of another slaughter house does not mean that they do not compete.

Q. What is the trade practice? A. We have found that in certain times a chicken market or butcher store in the Bronx will buy from Brooklyn. We have found that dealers in Manhattan will buy from the Bronx, so instead of as in the earlier days, feeling that a competitor was simply a man in the immediate vicinity of another slaughter house, we find that the five boroughs compete with one another and that within the borough there is competition over the whole borough. 1772

Q. You heard Mr. Heller's question as to whether or not it was not true that the closest competitor of the A. L. A. Schechter Poultry Corporation was two miles away from him? A. Yes.

Q. Suppose there were a dozen wholesale and retail slaughter house operators within the immediate vicinity of the A. L. A. Schechter Corporation, would you say that there would be competition between the wholesale and retail slaughter house markets and the A. L. A. Schechter Poultry Corporation? 1773

Mr. Heller: I object to the form of the question.

Mr. Heller: I object to the form of the question, and in the second place, the witness said he did not know where the nearest competitor was located.

The Court: He has already said there would be competition between any live

1774

poultry markets; I believe that answers the question.

Mr. Rice: Yes, I think it does.

Q. Has the Live Poultry Code Authority received any report as to volume of sales from the slaughter houses located in Brooklyn since the Code went into effect?

Mr. Heller: That is objected to as not binding on us.

1775

The Court: I will let him prove the volume of sales.

Mr. Heller: Exception.

A. May I hear the question again?

(Question repeated by the stenographer.)

A. It has.

Q. And has the volume of sales of various markets located in the vicinity of the A. L. A. Schechter Poultry Corporation market been recorded on this list which you prepared upon the request of counsel for the defendants? A. Yes.

1776

Q. And where did you take these figures from? A. From our weekly reports from these slaughter houses.

Mr. Rice: I offer this in evidence.

Mr. Heller: That is objected to, your Honor; we have not had a chance to compare the books of the different competitors with reference to the amount of their sales, and it is not binding on us.

Mr. Rice: I recognize that if counsel objects to this method of proof as to the volume of sales by the competitors of the

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A. L. A. Schechter Market, then we must offer the best evidence.

The Court: Yes.

Mr. Rice: However, I do offer in evidence the list of markets competing with the A. L. A. Schechter Poultry Corporation requested by counsel for the defendants.

Mr. Heller: I will be happy to accept it providing the names and addresses are given alongside of each competitor, I will be happy to take it then.

1778

Mr. Rice: These addresses are quite as available to counsel for defendants as they are to us, the names are given here.

Mr. Heller: I want the jury to have the entire situation before them, the names and addresses.

The Court: You can write out a list with the addresses. Counsel says he won't object to the facts if the addresses are given.

Mr. Heller: I am satisfied to take the names on here, but I want the addresses.

1779

The Court: All right; let somebody put the addresses in.

The Witness: The addresses are right here.

Q. The bailiff has just handed me a list of addresses; does this include the list of people that are on this list, their addresses? A. It does.

Mr. Rice: Then, if your Honor, please, I offer this list of addresses as part of the exhibit.

1780 Mr. Heller: Oh, no, I want it all in one.

The Court: You will get it all confused. Let somebody make another list and put the addresses on. Counsel says he won't object.

Mr. Rice: Very well; I will offer this in evidence and I think——

Mr. Heller: Not this; it has figures on here of other merchants, that are not binding on us. Make a new list with those

1781 names and the addresses and leave this other matter off, and I will take it.

Mr. Rice: Very well; that is all.

(Witness excused.)

HYMAN W. GARDNER, called as a witness on behalf of the Government, having been duly sworn, testified as follows:

Direct examination by Mr. Rice:

1782 Q. What is your occupation, Mr. Gardner? A. I am a veterinarian.

The Court: What?

The Witness: I am a veterinarian.

Q. What position do you occupy? A. I am a veterinarian for the Department of Health at the present time, and also in private practice.

Q. How long have you been a veterinary? A. Fifteen years.

Q. What training did you have prior to becoming a veterinarian?

Mr. Heller: I will concede that he is qualified, your Honor.

Mr. Rice: Very well.

The Court: Have you a degree?

The Witness: Yes, sir, from Cornell, D.V.M.

Q. Dr. Gardner, did you visit the A. L. A. Schechter Poultry Corporation Market at 858 East 52nd Street, Brooklyn, on June 28, 1934? A. I can tell from my report. I did not visit that particular corporation's market. I visited a poultry slaughter house at 858 East 52nd Street, operated by, according to their permit, by Alex 1784
and Martin Schechter.

Q. By Alex and Martin Schechter? A. That was what the records of the Department were.

Q. Do you know—what do you know that market as? A. I know it as a poultry slaughter house run by the Schechter Brothers.

The Court: June when was that?

Mr. Rice: June 28th.

The Witness: May I see those F. F. A.'s?

Q. Do you know that market as the Rugby Live Poultry Market? A. I believe I have 1785
heard it used, but I never considered it by that name. They call those markets by so many names. I go according to the permit.

Q. How did you happen to go to that market? A. Well, we were making inspections in Brownsville or East New York, and I was with Mr. Forthsmith of the Poultry Code Authority, and I was letting him take me around——

Q. Speak up so the jury can hear you. A. And I was letting him take me around to the poultry slaughter houses he wanted to go to, so we had been, I think, on a previous inspection

1786 of some of them in Brownsville, and this particular day we thought we should go down to Schechter's place on Rockaway Avenue and the Schechter's place at East 52nd Street, and then on our way back we would cover some more markets in Brownsville.

The Court: Is that 851 or 852?

The Witness: It is 858 East 52nd Street.

A. (Continuing.) The first place we went to
1787 was 991 Rockaway Avenue; the 52nd Street was the second place.

Q. You went to 991 Rockaway Avenue? A. Yes, sir.

Q. Whose market is that? A. Well, we were—the Health Department was under a misunderstanding there. The permit used to read Sam Schechter, but I always knew the man in charge, or the owner of the place, to be Joseph Schechter. I think that was straightened out afterwards with the Department. The permit—I don't know, they claimed that the market was owned by this
1788 Sam Schechter, but Joseph Schechter was the—oh, I don't know—the silent partner or indirect proprietor, or whatever it is, I don't know, but Joseph Schechter was the man who operated the place, the man that I always had dealings with.

Q. Who had the permit from the Health Department? A. A man by the name of Sam Schechter. I cannot designate him.

Q. Do you know who was operating the market there? A. Joseph Schechter.

Q. Do you know whether he had a permit to operate a slaughter house market? A. Not under his name.

Q. Do you know whether he had any permit? A. Not that I know of, no, sir.

Q. Do you know whether the Schechter Live Poultry Market, Inc., had any permit? A. No, they never had a permit under that name.

Q. Do you know that Joseph Schechter did not have a permit? A. Not under his name.

Q. I say, do you know that he did not? A. Yes, sir, I know that he did not.

Q. Do you know that the Schechter Live Poultry Market, Inc., did not have a permit to operate a slaughter house at 991 Rockaway Avenue? A. I know that they did not.

Q. But you do know that Sam Schechter had 1790
a permit to operate a slaughter house at 991 Rockaway Avenue? A. If that man lived, or if that man existed, it was under that name.

Q. You know there was a permit issued—— A. To Sam Schechter.

Q. (Continued.) —to a man by that name? A. Yes.

Q What did you do at 991 Rockaway Avenue? A. Well, I went into the place, and the first thing I did was to begin to look at the poultry in the place, and I spotted a basket that was in the back of the poultry house. That basket was— 1791
in a poultry slaughter house, when you see a basket with stuff in it back of the place, you get suspicious, so I looked at the basket of poultry and I asked the man in charge, I think it was the bookkeeper—Mr. Joseph Schechter wasn't there at the time—told him I would like to look this stuff over, and I think they got another coop, empty coop, and we began to go over this poultry, and out of, I think there must have been fifteen chickens in the basket, out of fifteen I think I condemned six chickens which I considered unfit for food.

1792 *Hyman W. Gardner—By Govt.—Direct*

Q. Just a moment. How many were in the basket? A. There must have been a dozen or fifteen chickens, poor birds.

Q. Don't you have a record of the exact number? A. No. In my report I put down that I condemned six chickens as being unfit for food. They were isolated in a spindle coop as unhealthy or poor poultry. There must have been a dozen or fifteen chickens in the basket, I don't think there were any more than fifteen could go into the basket.

1793 Q. What was the condition of the six chickens you condemned as unfit for human consumption? A. Two of them had a condition which I diagnosed as salpingitis, and they also showed evidence of peritonitis, because while I should consider those birds unfit for food on ante-mortem inspection, I made a post-mortem inspection and found two birds that had pot belly—members in the trade call that by several names, and I was suspicious of them because about 80 per cent. of the birds of that type are unfit for food; when you open them up you generally find a salpingitis

1794 condition, peritonitis, and I opened those birds up and sure enough, they showed evidence of peritonitis, they had salpingitis, that means that the ovary ducts were inflamed and they must have ruptured and allowed a certain material to seep out into the abdomen and developed pot belly.

Q. Could the inferior condition of those chickens be recognized by anybody? A. Any man in the trade would recognize these birds as pot bellied birds. They call them by another name, if I may use it. It is a vulgar expression, but they use it and they know it.

Q. Is it too vulgar to use it in this court room? A. Yes, I think so.

Q. Very well. You have described the condition —— A. These are only two of the birds.

Q. (Continued.) —of two of the birds? A. Yes, sir. Two of them I condemned for extensive bruises and fractures, and two others I condemned for emaciation. By emaciation, of course, there may be a difference of opinion, but I consider a bird as practically that has practically no flesh on its breast, as emaciated; one that would practically there would be no nutrition, no nutritive value from a bird like that, and I would consider it emaciated.

Q. These six birds that you condemned, did you readily recognize them as unfit for food? A. Yes.

Q. In your opinion would any man in the poultry trade readily recognize them as unfit for consumption? A. Yes.

Q. No question about that at all? A. No question about that at all.

Q. What did you do with the birds? A. Why, I asked to have them denatured and there was no antiseptic on the place.

Q. Do the Board of Health, Health Department rules, require that a can of disinfectant be kept at all slaughter houses? A. Yes, sir, to denature any of the birds——

Q. Was there a can of disinfectant there? A. Not at the time I was there.

Q. What happened? A. Why, they went out to get some disinfectant, and we had some other work to do, and there was another gentleman there by the name of—of the Code Authority—by the name of Muscatn, so we—I decided—I

1798 asked him to stay there and see that the birds were disinfected, while I left with Mr. Forthsmith, and then on our way back we stopped off to make sure they were disinfected, and they were, because we did not want to wait until they obtained the disinfectant.

Q. Did you do anything yourself at that market, 991 Rockaway Avenue? A. No. By the way, if I can answer, Mr. Schechter wasn't there at the time that I was making the condemnation. The bookkeeper, I think, didn't want
1799 me to condemn these birds, or he didn't want me to destroy them.

Mr. Heller: I object.

The Court: Strike out what the bookkeeper didn't want to do.

A. (Continuing.) Mr. Schechter wasn't there at the time, but he came later and he was present, but he wasn't present when I condemned the birds.

Q. He was present when you finally condemned the birds? A. He had no objection to it, he made
1800 no objection to it, rather.

Q. Did you make out a report at that time? A. Yes, a score card, we call it.

Q. Is it your duty as an inspector of the Department of Health to make out such a report? A. In most of the cases, yes. In practically all I make out my score cards.

Q. What is done with this so-called score card? A. I make this out in triplicate, and when I get home, if there are any F. F. A.'s, facts for arrest, if there are any F. F. A.'s to be made out, why, I make them out right from my score card; two of them are sent in to the Department

1801

and one of them, of course, to the owner, and two of them are sent to the Department, together with the F. F. A. the facts for arrest.

Q. And what did you do with the F. F. A.? A. That goes to the Department and they do whatever they see fit. They prosecute or they bring them up before a trial board or whatever they deem fit.

Q. And is it kept as part of the records of the Health Department? A. Oh, yes.

Q. Now, do you have the F. F. A. that you made out at 991 Rockaway Avenue? A Yes, sir. 1802

Q. With you? A. Yes, sir, this is it (indicating).

Mr. Rice: I offer it in evidence.

Mr. Heller: No objection.

The Court: There is some writing on the other side Mr. Heller examined.

The Witness: That is the diagnosis.

Q. You put the diagnosis of each chicken that is deemed unfit for food? A. It says, "Reason for condemnation" and then I give the reason.

1803

(Marked Government's Exhibit 27 in evidence.)

Q. What did you do after you had made out this F. F. A. at Joe Schechter's place at 991 Rockaway Avenue? A. I did not make it out there. I only made out the score card, at home I made out the F. F. A.

Q. And what did you do after you left Joe Schechter's place? A. I left him the score card and I went to 858 East 52nd Street, Mr. Forsmith and myself.

Q. Benjamin Forsmith went with you? A. Yes, sir.

1804

Q. What did you do there? A. I inspected poultry on the place and if my memory serves me right Mr. Forsmith asked have you any culls here and one of the Schechter brothers said we have a little stuff in the back and I immediately went to the back where we found a few poor birds.

Q. Just a minute——

Mr. Heller: Why not let him answer that.

1805

Mr. Rice: Because I desire to present my evidence in order.

Q. Before you went to the back, when you first entered the place, did you say anything to any of the Schechter brothers? A. I don't remember, I may have said something.

Q. Did you see any of these four men there (indicating the four defendants)? A. I saw two of them. There may have been more but I saw the two sitting there at the end (indicating).

Q. Which ones? A. At my right, to the two end nearest there (indicating).

1806

Q. This gentleman in the back (indicating)? A. Yes, sir, that is the one.

Mr. Heller: The witness is indicating Mr. Alex Schechter.

Q. And who else? A. The gentleman nearest him there next to him (indicating Mr. Martin Schechter).

Q. Now did you say anything to either of them when you first came in there? A. I may have, but I don't remember.

Q. You don't recall it? A. No.

1807

Q. Then what happened? A. Well, I inspected these poor birds in the back, there may have been a half a dozen of them, and I was suspicious and I went over them carefully and I condemned four of those few in the back. Three of them for emaciation and one of them for roup and emaciation. By that I mean there were discharges from the eyes and nose and it had diphtheric membranes, yellow patches that any slaughter house poultry owner would recognize.

1808

Q. And how many chickens were in the container that these four that you condemned were in? A. There were only about six.

Q. And you condemned four out of the six? A. Yes.

Q. And were the four that you condemned readily recognizable as unfit for food? A. Yes, they called them culls themselves, but I would like to explain something about this cull business.

Q. Just a minute, we do not want any explanation about that now, it will only confuse things. Were they unfit for food? A. Yes, sir.

Q. All four of them? A. Yes.

1809

Q. And were the six chickens that you saw at Joe Schechter's place unfit for food? A. Yes,—you mean the others at the other place?

Q. Yes. A. Oh, certainly.

Q. Now would you say that any man in the poultry trade would recognize these four birds as unfit for food? A. Yes.

The Court: He said about the six before, but I will let you ask about the four.

Q. About the four. A. Yes, sir. If they thought that they were fit for food they would object to my condemning them.

1810 Q. What happened after that? A. After I condemned then I went into the office to make out my score card and when the Schechter brothers saw me making out the score card——

Q. Now just a minute, when you say Schechter brothers, do you mean those two whom you have identified? A. Yes, when they saw me making out the score card they became quite peeved with Mr. Forsmith.

Q. What did they do or say? A. I cannot remember all the language—I cannot remember all
1811 the language, but they got into a very heated argument, they got into a heated discussion with Mr. Forsmith.

Q. We want to know what happened. A. Well, I cannot recall everything, but I know this much, as long as I condemned the birds everything was all right, but as soon as they found out that I was writing it up they became excited, especially with Mr. Forsmith, and they used abusive and violent language.

Q. Who is Mr. Forsmith? A. He is of the Poultry Code Authority.

1812 Q. And you say they used abusive language?

Mr. Heller: If your Honor pleases, I move to strike that out "abusive language."

The Court: Yes, tell us what was said.

The Witness: They were heated words.

The Court: Well, give us the substance.

The Witness: This is your day and you are on top today, but you will be down tomorrow and we will be on top, and one thing led to another.

Q. Well, tell us as much as you remember. A. I would rather not say anything. I want to tell

the truth and I cannot remember the exact words. I am not trying to hide anything—I want to tell the truth, but I cannot remember the exact words, but I know they became all heated up and they got into a hot argument and they became abusive to him.

Mr. Heller: I move that that be stricken out.

The Court: Strike out the "abusive." Mr. Witness, you cannot tell us your conclusions. You must tell us in substance 1814 what was said.

Q. Was anybody calling anybody else any names?

Mr. Heller: I object to that as leading.

The Court: Oh, he can ask that question of a man who has forgotten something. Objection overruled.

Mr. Heller: Exception.

The Witness: He may have called him——

The Court: Not what they may have done. Tell me, was it a one-sided argu- 1815 ment or was it an argument into which they all participated?

The Witness: It was one-sided because Mr. Forsmith tried to be as polite and as nice as he could be under the circumstances.

The Court: Well, tell us what did they say to him and what did he say to them?

The Witness: I cannot remember, your Honor.

Q. Did they do anything? A. No, not physically, I was afraid that they would, but they did not.

1816 Q. Did you examine the premises to see whether there was a can of disinfectant at that particular slaughter house No. 858 East 52nd Street?

Mr. Heller: We are not being charged in this indictment with not having cans of benzine or disinfectant present, whatever it may be, in this slaughter house.

The Court: That isn't one of the offenses charged here.

Mr. Rice: All right.

1817 Q. What happened after you condemned these four birds? A. They were, if I remember right—that is another thing that I do not remember. I think they had disinfectant in the place, and they denatured the birds or I wouldn't have left the premises unless they did, or I would have left somebody there to see that the stuff was disinfected. So I think that they disinfected these birds.

Q. As a matter of fact didn't they go out and buy some disinfectant? A. At this particular

1818 place?

Q. Didn't they do that and bring it in? A. Maybe they did, and maybe I waited until they got back. I remember at the other place, 991 Rockaway Avenue, they didn't have it, and they had to go out and get it. We waited a while, and then went away and told somebody to see that the stuff was disinfected.

Q. Did you make up an F. F. A. there for the four unfit chickens that you found at the A. L. A. Schechter Poultry Corporation? A. At the A. L. A. and the other Schechter place, yes.

Q. At 858 East 52nd Street I am asking you about. A. Yes, at that place.

1819

Q. Is this the F. F. A. you have in your hand? A. Yes, sir.

Q. And that record is kept in the same way as the previous exhibit? A. Yes, sir.

Mr. Rice: I offer that in evidence.

Mr. Heller: No objection.

(Marked Government's Exhibit 28 in evidence.)

Mr. Rice: That is all.

Cross examination by Mr. Heller:

1820

Q. Doctor, when you visited the first place at 991 Rockaway Avenue, about how many coops of chickens did you find there on the floor? A. Well, I don't remember, there were some coops of poultry.

Q. This was on a Thursday, wasn't it? A. I think it was on a Thursday, yes, sir.

Q. That was quite a busy day in the market, was it not? A. Yes, sir.

Q. Would you say that you found about 100 stacks of chickens? A. Oh, no, not a hundred stacks, I do not think that many.

1821

Q. About how many did you find? A. There may have been 50 coops of poultry there.

Q. And there were about 30 to 40 birds in a coop? A. That many, yes, sir.

Q. So there would be about between two and three thousand birds there approximately, is that right? A. Fifty—two thousand birds, yes, sir.

Q. You looked at those birds, did you? A. Well, I gave them ante-mortem inspection, whatever I could see by just looking at them.

Q. I do not mean those in the basket, I mean those in the coops. A. I looked at those too.

Q. You saw them all there, didn't you? A. I saw them, yes.

Q. And you found them to be healthy? A. Apparently they were healthy as far as I could see.

Q. They had the labels of the Inspection Service on them, did they not? A. They were inspected by the Bureau of Agricultural Economics.

Q. All those birds that you claim were unfit were in a separate basket, is that right? A. Yes, sir.

1823

Q. Which you say was away from the coops? A. In the back of the room.

Q. In the back of the room? A. Yes, in the back of the slaughter house.

Q. You didn't find any customer come in and make an offer for those birds while you were there, is that right? A. No, sir, not at that time.

Q. You didn't see anyone buy them, did you? A. Not at that time.

Q. You do not know whether they were for sale or not? A. If they are on the premises as far as the Health Department is concerned the presumption is they are for sale.

1824

Q. You mean that is your presumption? A. Absolutely, because otherwise the man should condemn those birds at once if he sees they are sick, he should condemn them immediately.

Q. They could be condemned an hour later, couldn't they? A. They should be condemned as soon as they know them to be unfit; the fact that they were in the basket indicated that they had been handled.

Q. And found to be diseased chickens? A. Then they should have destroyed them.

Q. And they had evidently taken them away from the other coops and put them in a separate place? A. They probably culled them out——

Q. When they found they were unfit? A. Yes.

Q. So they put them aside in the basket to be destroyed? A. No, not for that, no, you are going too fast.

Q. All right, let us take it slower. A. They probably considered those birds poor birds, and they probably——

Q. That is your opinion. A. And they probably meant to sell them at a lower price—— 1826

Q. That is your——

Mr. Rice: I object to counsel interrupting this witness.

The Court: Let him finish his answers.

Q. You can't read a person's mind in advance, can you? A. The Health Department——

Q. Please answer my questions one at a time. Do you propose to testify here as an expert as to the operation of one's mind? A. No, sir.

Q. All right, as far as you were concerned, all you know is that these six birds or eight or ten were separate and apart from the healthy chickens, is that right? A. They were. 1827

Q. Is that correct, in a separate room? A. Not in a separate room, no, sir, in the same room.

Q. In the back of the room? A. In the back of the sales room.

Q. Away from these other coops? A. Yes, sir, that is right.

Q. You saw no customer, you saw no customer come in and make a bid for these chickens, did you? A. No.

1828 *Hyman W. Gardner—By Govt.—Cross*

Q. With reference to the other place, 858 East 52nd Street, how many coops were there in that place? A. I do not remember exactly.

Q. Would you say there also were two or three thousand birds? A. I would say that many coops were there, yes, sir.

Q. And those coops were there on the floor? A. I went over them, gave them an ante-mortem examination.

Q. You found them apparently healthy? A. I found them apparently all right.

1829

Q. You found the inspection slips on the coops? A. Yes.

Q. And those birds you say were culls were in a separate basket, is that correct? A. I do not call those birds culls. I say they were culled out, but I do not call them culls because people, different people mean——

Q. Different things? A. Have a different opinion as to what constitutes a cull. The Code Authority considers a cull as a bird unfit for food. I do not use the term. I say they were culled out.

1830

Q. In other words they were taken out from the other birds? A. Yes, sir.

Q. They were taken out from these other coops? A. Yes, sir.

Q. And were in a basket apart? A. Yes, sir.

Q. There was no customer that made a bid for those at the time, was there? A. No, sir.

Q. Isn't it a fact that that is the usual situation in most markets? A. What is the usual situation?

Q. Don't you find culls in many markets? A. Yes.

Q. Separated? A. Yes, and if I find them I will condemn them.

Q. There is a possibility, is there not—— A. But it is a practice though——

Q. I am just asking you a question here, you find that condition, do you not, in different markets?

The Court: That wasn't an answer to the question, you do not need to state what the practice is as you weren't asked that.

1832

Q. You find that condition in different markets, from time to time, do you not? A. Yes, sir.

Q And you condemn them? A. Yes, sir.

Q. A lot may happen between the time a chicken gets into a place up to the time of sale? A. Yes, sir.

Q. They are live chickens? A. Yes, sir.

Q. They might be diseased in transit? A. Surely.

Q. You do not condemn a man for culling out diseased chickens or unfit chickens, do you? A. 1833
I really do not get that, what was it?

Q. Do you condemn a man for culling out culls from the coop? A. I do not condemn the man, no——

Mr. Heller: That is all.

The Witness: I condemn the chicken if it is unfit for food.

Mr. Heller: That is right. That is all, that is all.

Mr. Rice: That is all, Doctor.

(Witness excused.)

1834 *Benjamin Forsmith—By Govt.—Direct*

BENJAMIN FORSMITH, called as a witness on behalf of the Government, having been duly sworn, testified as follows:

Direct examination by Mr. Rice:

Q. What is your business, Mr. Forsmith? A. I am employed by the Code Supervisor.

Q. What Code Supervisor? A. Live Poultry Code.

Q. In what capacity? A. My official title is
1835 Industry Liaison Officer; my duties are varied.

Q. How long have you been employed by the Code Authority? A. Since about May 1st.

Q. 1934? A. 1934.

Q. What were your duties since you came into the employ of the Code Authority, when you first came into the employ? A. Investigator.

Q. Were you directing other investigators to a certain extent? A. Yes.

Q. Just what did you do in that capacity? A. Well, I would assign people to various territories; I was training the investigators into the
1836 practices of the industry.

Q. What type of investigations did you make? A. Observation mostly.

Q. Investigating what type of violations? A. Violations of the Code, the provisions of the Code.

Q. What particular provisions? A. All of them.

Q. And you are familiar with all of the provisions? A. I am.

Q. Of the Live Poultry Code? A. I am.

Q. Do you know Joseph Schechter? A. I do.

Q. Will you point him out? A. That is Joseph Schechter. (Indicating Joseph Schechter, the defendant.)

Q. Identifying the defendant, Joseph Schechter. Do you know what market he operated from May 16, 1934, on? A. Yes.

Q. What market did he operate? A. 991 Rockaway Avenue, the Schechter Live Poultry Company, Inc.

Q. How do you know that? A. From information given to me by his brother.

1838

Q. What brother?

Mr. Heller: I object to that and I move to strike it out; I move to strike out the answer.

The Court: I will strike it out in so far as—wait a minute, I cannot do that. If it is connected up as a conspiracy, if a conspiracy should be established, why then the actions or the statements of any one would bind the others. If there is no conspiracy it would not bind them. But what brother do you mean?

1839

The Witness: Meyer Schechter.

The Court: Is he here?

The Witness: Yes, sir.

The Court: Which one is it?

The Witness: He is standing.

The Court: That is indicating the defendant Martin Schechter, isn't it? Is that correct?

Mr. Heller: I do not know.

Mr. Rice: We will show that this man has two aliases.

The Court: I do not care anything about that. He is indicating Martin Schechter.

1840

Q. You call this man Martin Schechter Meyer Schechter? A. I do.

Q. Why? A. I have always known him as Meyer Schechter.

Q. Have you ever heard him called Martin Schechter? A. I have.

Q. Where? A. In the market.

Q. Have you ever heard him called by any other name? A. No, sir.

Q. When did you ascertain these facts as to the identity of Joseph Schechter and the Schechter Live Poultry Market, Inc.——

1841

Mr. Heller: Let us get down to the meat of it, Judge. If you want a concession that he is interested in the corporation, I will give it to you.

Mr. Rice: Interested in what corporation?

Mr. Heller: The Schechter Live Poultry Market, Inc. at 991 Rockaway Avenue.

Mr. Rice: Very well.

The Court: From when?

1842

Mr. Heller: From this inspection.

Mr. Rice: Will you concede also, Mr. Heller——

The Court: Just a minute. Do not ask him in the presence of the jury.

(Discussion off the record.)

Q. Do you know whether the Schechter Live Poultry Market, Inc. operated the poultry slaughter house market at 991 Rockaway Avenue, Brooklyn, on May 16, 1934? A. I do not.

Q. You do not? A. No.

Q. Do you know whether they operated the live poultry slaughter house market some time after that date? A. I do.

Q. From what date? A. About June 1st.

Q. You know they have operated since June 1, 1934? A. I do.

Q. Up to what date? A. Not up to today.

Q. Well, about what time? A. About a month ago, I believe.

Q. Today is October 22nd. A. Some time in August I think they closed up.

1844

Q. Do you know what poultry market is operated at No. 858 East 52nd Street, Brooklyn? A. I do.

Q. What market is it? A. It is——

Mr. Heller: As of what date, Mr. Rice?

Mr. Rice: As of today.

Mr. Heller: I——

Q. May 15, 1934? A. The A. L. A. Schechter Live Poultry Corporation—that was one name. They had another name, the Rugby Live Poultry Company.

1845

Q. How do you know that? A. That was the legend the truck bore.

Q. Do you know what individuals were operating the A. L. A. Schechter Poultry Corporation at 858 East 52nd Street, Brooklyn, on May 15, 1934? A. I do.

Q. What individuals? A. They were Alex, Aaron and Meyer.

Q. That is Martin? A. Martin.

Q. Can you identify each of them? A. Alex, he is the last man there, that is Alex, and in front of him is the one that I call Meyer, and Aaron is directly in front alongside of him.

1846 *Benjamin Forsmith—By Govt.—Direct*

Mr. Rice: Identifying the three defendants named.

Q. Do you know whether or not Alex, Martin and Aaron Schechter have operated the A. L. A. Schechter Poultry Market at that address since May 15, 1934? A. Will you repeat that, please, Mr. Rice?

Q. Do you know whether those three defendants have operated that market at that address since May 15, 1934? A. That is my belief.

1847 Q. Do you have any knowledge? A. I have been there, and I have seen them in the premises.

Q. When? A. On May 24th, May 29th, May 31st, and June 28th.

Q. Of 1934? A. Yes, sir.

Q. And you have seen all three of those individuals there at those times? A. At some time, yes, sir.

Q. Now, did you have any conversation at any time with Meyer or Martin Schechter with regard to the individuals who operated the A. L. A. Schechter Live Poultry Corporation?

1848 A. I did.

Mr. Heller: Are you taking that subject to connection, your Honor?

The Court: Of course, if none of those were present——

The Witness: I had a conversation.

Q. What was that conversation? A. May 24th. I was instructed to go to the premises on 52nd Street to find out who operated each market. When I got there I found Meyer Schechter there, and he gave me the information.

1849

Q. What information did he give you? A. He told me that his father, David Schechter, operated the Snediker Avenue Market under the name of Mogen David Live Poultry, and that Joseph Schechter operated the Schechter Live Poultry Corporation.

Q. At what address? A. 991 Rockaway Avenue, and that the A. L. A. was operated by Meyer and Alex and Aaron Schechter.

Q. Now, when you say Meyer Schechter you mean the man that has been named as the defendant under the name of Martin Schechter? 1850
A. That is right.

Q. When you were at the A. L. A. Schechter Live Poultry Corporation at 858 East 52nd Street, Brooklyn, on May 24, 1934, did you do anything else besides get this information that you have just stated? A. Yes, I walked through the plant and I observed some empty coops there and I took some identifying numbers from them.

Q. How many empty coops? A. 21 empty coops, and I took three numbers off the inspection labels.

1851

Q. And do you have those three numbers that you took off the inspection labels? A. Yes, sir.

Q. And you mean that there were inspection labels on the coops? A. Yes.

Q. And you recorded the numbers? A. Yes.

Q. And have you them with you? A. Yes, sir, they are here. (Witness handing paper to counsel.)

Q. Can you tell us what those three numbers are?

Mr. Heller: I object; there is no relevancy here as to that.

1852

Mr. Rice: We are going to connect this up through a chain of proof, showing the sale of uninspected poultry.

Mr. Heller: I ask your Honor to tell the jury at this time to disregard counsel's statement.

The Court: Yes, Gentleman of the Jury, disregard counsel's statement. There is no charge at this time——

Mr. Rice: If your Honor please, there

1853

are; Counts 4 and 5 charge the sale of uninspected poultry.

The Court: All right; it relates to Counts 4 and 5, is that it?

Mr. Heller: This is May 24th that he is talking about, your Honor.

The Court: That is what he says.

Mr. Heller: I don't know what that has to do with May 28th.

The Court: It might or it might not. Objection overruled.

Mr. Heller: Exception.

1854

Q. This was May 24, 1934? A. Yes, sir.

Q. And what were those numbers that you took down from the inspection labels that you saw on three of the 21 empty coops? A. The numbers are 19411-69934 and 68439.

Q. What prompted you to take those numbers down?

Mr. Heller: That is objected to.

Mr. Rice: Very well; I will withdraw that.

Q. What did you do after you took those numbers down? A. I left the premises.

Q. You left the premises? A. Yes.

1855

Q. Did you return to the premises later on? A. On the 29th of May.

Q. On the 29th of May? A. Yes.

Q. What did you do on May 29, 1934? A. I arrived at the premises about quarter of seven A. M. and proceeded right through the premises until I reached what is known as the store room in the rear of the premises, and I found 59 baskets of live poultry, none of the baskets bearing any inspection labels.

1856

The Court: What date was this?

Mr. Rice: May 29th.

Q. Did you examine the 59 baskets? A. I did.

Q. Did you examine them for inspection labels? A. I did.

Q. What did you find? A. I found no inspection labels on any of the baskets.

Q. Are you sure that there were no inspection labels on any of those baskets? A. I am.

Q. Approximately how many pounds of poultry are normally contained in a basket?

1857

Mr. Heller: That is objected to as no proof of what was in these baskets.

The Court: That is right.

Mr. Rice: He just stated they contained live poultry.

The Court: If he can tell us what they contained, all right, if he knows. They might question how he knows it. If he knows it, if he has had experience, he may answer.

A. About 50 pounds.

Q. Sometimes a little more than that? A. Sometimes a little less.

1858 Q. What is the range of the amount of poultry contained in a so-called basket? A. There are usually 12 birds packed into a basket, when they are fowl, and the average weight is probably 4 pounds apiece.

Q. Do these baskets sometimes contain 60 or 65 pounds of poultry? A. They sometimes do, yes, depending on the season of the year.

Q. What does the season of the year have to do with it? A. Well, they pack them a little heavier in the cooler months.

1859 Q. What else did you see at the A. L. A. Schechter Poultry Corporation's premises on May 29, 1934? A. I observed the 21 coops that had been in the same spot as they were on May 24th, had been—were full of live poultry.

Q. When you were there on May 24th was there any poultry in these 21 coops? A. There wasn't.

Q. And you took down three of the inspection label numbers? A. That is right.

Q. When you returned on May 29th what did you do? A. I checked the three numbers that
1860 I had with the coops there and found they were alike.

Q. That is, you checked these three numbers? A. Yes, sir.

Q. Were they the identical numbers? A. They were.

Q. You are positive about that? A. Yes.

Q. Were the 21 coops in the same position that you had seen them? A. They were.

Q. On May 24th? A. They was.

Q. And they were all full of poultry? A. Yes, sir.

1861

Q. What else did you do? A. I spoke to one of the employees and I said to him, "Sammy"—

Mr. Heller: I object.

The Court: Never mind what you said to any of the employees.

Q. Were any of the defendants there? A. Yes, all three of them.

Q. Which three? A. Aaron, Alex and Meyer.

Q. Did you talk with any of them? A. Yes.

Q. Whom did you talk to? A. Alex, Al.

1862

Q. Nobody else? A. No.

Q. Were Aaron and Martin Schechter present when you talked with Alex? A. They are, yes, part of the time.

Q. What was said by Alex Schechter when you say the brothers, Martin and Aaron, were present? A. I asked him where the inspection labels were for the 59 baskets in the back store room.

Q. Give us the whole conversation. A. And whether he could show me the inspection labels for the poultry contained in the 21 coops that I thought were uninspected poultry, and he said that the inspection certificate was in the possession of his brother, Joseph Schechter.

1863

Q. Now, Joseph Schechter is the man that you have identified as the man operating the slaughter house market at 991 Rockaway Avenue? A. That is right.

The Court: Who was this you asked, which one?

The Witness: Alex.

Q. You asked Alex if you could see the inspection labels? A. Yes.

1864

The Court: That is what he said.

Mr. Rice: Very well.

Q. Did he say anything else? A. Inspection certificate.

Q. Inspection certificate? A. That is it.

Q. Just what is that? A. That is a certificate issued by the inspectors when they inspect a load of poultry, a car of poultry, certifying that they have inspected that, in addition to the labels that are pasted on the coops, baskets.

1865 Q. What else, if anything, was said between you and Alex at the time that Aaron and Martin Schechter were present? A. Well, I asked him—he told me that he had them inspected and that his brother had the certificate, and I said, "Well, if they were inspected, how come they don't have any labels on the baskets or the coops?" He didn't answer me.

Q. He did not answer you? A. No.

Q. Was there anything else said by either of you? A. Yes, I said to him, "I understand that when you closed last night there were 18 coops

1866 of poultry on the floor at four o'clock and there are 62 coops on the floor right now. Where did you get this poultry?"

Q. What did he say? A. He said some of it came in at five o'clock in the afternoon and some of it came in about ten o'clock in the afternoon, it was all inspected, "and my brother has the certificates."

Q. What brother? A. Joe.

Q. Did he say Joe? A. Yes.

Q. Did Aaron and Meyer—Martin Schechter, participate in this conversation? A. They just stood by.

Q. They stood by during the entire conversation that you have related? A. Yes.

Q. Were you talking with them as well as with Alex Schechter? A. Yes, I was addressing myself to all three.

Q. What else did you see in the premises on that day? A. Nothing else.

Q. Did you see any more poultry? A. Yes.

Q. What else, besides 59 baskets? A. There were all told 62 long coops of poultry on the floor.

1868

Q. Approximately how many pounds of live poultry is contained in a coop? A. About 170 pounds.

Q. Would you say that is the approximate amount of poultry contained in these live poultry coops? A. There was no way of me telling how many pounds were in each coop. That is the practice to, keep about 170 pounds of fowl in a coop.

Q. What is the size of these coops? A. Three by six.

Q. What altitude? A. About 14 inches. Of course, they are divided right in the middle into two sections. 1869

Q. About how many chickens are contained in each section of a loaded coop? A. About 18.

Q. About 18 normally? A. Normally.

Q. About 36 chickens in the entire coop? A. Depending upon the size of the poultry. If they are of the heavier grade, fowl, they would be less; lighter grade, there would be more.

Q. What did you do after that, Mr. Forsmith? A. I proceeded to the 991 Rockaway Avenue plant. I found Joe Schechter seated in his automobile outside the door.

1870

Q. Did you have any conversation with him? A. I did.

Q. Anybody else present? A. No, sir.

Q. What was the conversation? A. I asked him whether he had inspection certificates covering the poultry at 858 East 52nd Street.

Q. Did you designate the amount? A. No.

Q. What was the entire conversation? A. He says, "Why do you ask?" I said, "There are 59 baskets that have no labels. There were 21 coops that I had seen empty on the previous visit that I think have uninspected poultry. Have you got the certificates for it?" And he said he did have. I asked him whether he would show it to me and he said he would not.

1871

Q. Did you see the inspector's certificate? A. I did not.

Q. At no time? A. No, sir.

Q. Did you have any other conversation—— A. None.

Q. (Continuing.) —with Joseph Schechter at that time? A. No, sir.

Q. Did you do anything else at Joseph Schechter's market? A. No, sir.

1872

Q. What did you do then? A. I went to the corner and called Dr. Ives' office to find out if there had been any poultry inspected for either of the Schechter plants, and they told me there had been 65 baskets inspected for Joseph Schechter at 991 Rockaway Avenue, Brooklyn, at 5 o'clock on Monday night at the Wallabout Market in Brooklyn.

Q. Did you ascertain whether the 59 baskets had been inspected? A. I was informed that only 65 baskets were inspected.

Q. Did you see these 65 baskets of poultry in addition to the 59 baskets? A. I did not.

Q. Did you see that amount of poultry that would be contained in 65 baskets? A. I did not enter the premises at 991 Rockaway Avenue. 1873

Q. I see. When is the next time that you visited either one of the Schechter establishments? A. The same afternoon about one o'clock on the 29th.

Q. And who was with you, did anybody go with you? A. Yes, sir.

Q. Who? A. I went with William Wright, one of our investigators.

Q. What did you do there? A. I wanted him to verify the three numbers I had taken as identifying these three coops. 1874

Q. What did you do there? A. I handed him the numbers and I says, "I want you to look at 3, 4 and 5 coop of the third stack from the back, and I want you to find out if these are the same numbers as are on the inspection labels of those coops."

Q. What did he do? A. Well, he went over and he says "Yes, that tallies."

Q. Did you do anything else there? A. That is all. 1875

Q. Did you see anything else? A. No.

Q. When was the next time that you went back to the Schechters' market at 858 East 52nd Street, Brooklyn? A. On May 31st.

Q. And who did you go with? A. With Mr. Wright.

Q. What did you do? A. We got to the premises about 6 A. M. on Thursday morning, the 31st. We stayed at the place until they started to slaughter poultry from these three coops that we had started to identify.

1876

Q. From these three coops as to which you had taken the numbers? A. That is right.

Q. What did you see? A. We saw them having this poultry slaughtered for the account of one Abe Brot.

Q. Did you see the sale? A. We did.

The Court: What date was this?

Mr. Rice: May 31st.

1877

Q. Do you know anything about the size of the Schechter establishments? A. I do.

Q. As compared with other markets in Brooklyn? A. I do.

Q. What is the comparative size? A. Well, at this time are you referring to the present time?

Q. No, I am referring to the month of May, at the time you made these visits in 1934. A. I would say the Schechter establishment, particularly the East 52nd Street plant, is the largest wholesale slaughter house in Brooklyn.

Q. The largest one in Brooklyn? A. Yes.

1878

Q. When is the next time that you visited either one of the Schechter establishments? A. On June 28th.

Q. Did you go with anybody? A. I did.

Q. Who? A. Dr. Gardner.

Q. The man that just left the witness stand? A. I do not know, I wasn't in the room.

Q. You were not in the room. How did you happen to go there? A. We were working in liaison with the Department of Health in order to eliminate——

Q. Speak out louder, we all want to hear you. A. We were working in liaison with the Department of Health in order to determine whether

there was unfit poultry being slaughtered and sold, and we had been doing that for about two weeks prior to June 28th. 1879

Q. Just what was the procedure on the part of you and Dr. Gardner of the Health Department? A. Well, we started out the week prior to June 28th, I think it was the 21st, and we started in on the Brownsville section of Brooklyn, Brownsville and East New York section of Brooklyn, and we visited the poultry slaughter houses in that section and examined the merchandise there for unfit poultry. The third week we were there 1880 we couldn't cover much territory because Dr. Gardner had a court case on and we had to stop at about 9:30. We only started about 8 A. M., so we only covered about eight or ten plants.

Q. Did you find any unfit poultry in those eight or ten plants? A. We did not.

Q. Did you look for it carefully? A. We did.

Q. Then when did you resume that tour of inspection? A. Well, we resumed on the 22nd, but we did not find, we did not visit poultry slaughter houses on the 22nd, we went direct to these chicken stores—— 1881

Q. Never mind about that, when did you start with the wholesale, with the slaughter house markets again? A. On the 28th of June.

Q. And where did you go on the 28th? A. We first re-inspected the places that we had visited the week previously.

The Court: That is the 28th of what?

Mr. Rice: Of June.

The Witness: Of June.

The Court: All right, this relates to Count No. 36?

Mr. Rice: I think 2 and 3.

The Court: All right.

1882

A. We first re-inspected the places that we had visited the week previously.

Q. On June 28th, 1934, you are speaking of now? A. Yes. Then we reached the plant of David Schechter on Snediker Avenue, and we found no violations there.

Q. That is the Mogen David Live Poultry Market? A. That is right.

Q. That is a retail establishment? A. Both retail and wholesale.

1883

Q. That is not operated either by Joseph Schechter or Alex Schechter or Martin Schechter? A. That is right.

Q. Then what did you do? A. Then we visited the plant at No. 991 Rockaway Avenue.

Q. And that is whose market? A. That is operated by Joseph Schechter.

Q. And what did you do there? A. When I arrived at the plant I found one of our investigators stationed there.

Q. What is his name? A. Jack Musican. I proceeded into the premises and I observed a spindle basket of live poultry about half way into

1884

the plant.

Q. Go ahead and tell us what you were telling. A. I observed this spindle basket of live poultry about half way into the plant, on the left-hand side against the wall. I said to Dr. Gardner the poultry in that basket does not appear to me to be good poultry.

Q. Never mind what you said to Dr. Gardner.

Mr. Heller: I don't object to it.

The Court: You don't object?

Mr. Heller: No, your Honor.

The Court: All right, go ahead.

1885

The Witness: I said to Dr. Gardner that this did not appear to be edible poultry and he had one of the men in the plant take them out. Before he did he said what have you got in the basket and he said we have got some culls and he said why don't you kill them off and he said we are waiting for Joe Schechter to return and he said well kill them all, they are no good, they are not fit to eat. He says "I want you to examine them first." He examined them and of the eight birds in the basket he destroyed six.

1886

Q. And what was done with them after they were destroyed? A. Dr. Gardner wanted him to denature them and the employées refused to do it.

Q. Did Joseph Schechter come into the place while you were there? A. He did.

Q. And was there any conversation between you and Dr. Gardner and Joseph Schechter? A. Dr. Gardner spoke to Joseph Schechter and told him that he would have to denature these birds.

1887

Q. And what did Joseph Schechter say? A. He said he did not, that he wanted to take them back to New York.

Q. He said he wouldn't do it? A. That's right.

Q. Now was there any disinfectant in the premises?

Mr. Heller: I object to that question.

Mr. Rice: All right I will withdraw the question.

Q. What happened? A. Well, Dr. Gardner insisted that this poultry be denatured and he prevailed upon Joseph Schechter that he should have them denatured.

1888

The Court And were they?

The Witness: I don't know your Honor.

Q. Was there anything else that happened in Joe Schechter's market? A. Nothing else.

Q. What did you do then? A. We proceeded to the plant at East 52nd Street.

Q. The A. L. A. Schechter Live Poultry Corporation? A. Yes.

Q. And who did you see there? A. All three brothers, Meyer, Alex and Aaron Schechter.

1889

Q. And did you go there with Dr. Gardner? A. Yes.

Q. And what did you do or say on entering the premises? A. We got there and Alex Schechter asked me what we were doing there. We said that we were making a general inspection to find out if he had good poultry in a sanitary condition in his place.

Q. And did either you or Dr. Gardner ask any questions when you came into the plant? A. Yes, I asked Alex if he had any culls on the premises and he said he did not have any.

1890

Q. And was anybody else there at the time when Alex said that? A. No.

Q. Well, was either Aaron or Martin there? A. They were in the premises there, but not in the front of the premises, not near the door. They were in about the middle of the premises.

Q. And were they within hearing distance? A. I think Aaron was within hearing distance, about ten feet.

Q. And did he look at you when you came in? A. Yes.

Q. Did Martin look at you when you came in? A. I don't remember.

Q. Well, when Alex Schechter made this statement, what was Aaron Schechter doing? A. I believe he was fixing one of the coops right near the door.

Q. And was he looking at you? A. When are you referring to?

Q. When Alex made the statement that there were no culls in the premises? A. Yes, he kind of half turned around.

Q. Well, at the time that Alex made the statement, is that it? A. That's right.

Q. And then what happened? A. Dr. Gardner walked through the plant, through the sales room, and I stood talking to Alex Schechter. Dr. Gardner came back and he says it appears to be all right.

Q. Tell us everything that happened. A. Well, I walked through, I walked right clean through to the storage room and I observed a coop—I observed a lot of empty coops, but I observed one coop——

The Court: Where?

The Witness: In the storeroom in the rear of the premises.

Q. And what was the position of the coop? A. It was stacked against the wall.

Q. Anything on top of it? A. Yes, there was about five coops in that stack and there was one coop containing about 20 Leghorn fowl and underneath that I noticed a coop that contained about 6 fowl which appeared to me to be unfit birds.

Q. What did you say? A. I went back and I said, "What have you got in the back room?"

Q. To who? A. To Alex.

1894 *Benjamin Forsmith—By Govt.—Direct*

Q. You went back to Alex, that man that told you there were no culls in the place? A. Yes, and Dr. Gardner was with him.

Q. And what did you say to Alex? A. I said what have you got in the back room and he said I have some culls.

Q. He said that he had culls? A. Yes.

Q. Then what happened? A. Dr. Gardner immediately ran to the back of the premises.

Q. Did you go with him? A. Yes.

1895 Q. What happened? A. All three of us went —that is, three Schechters, myself, went with Dr. Gardner.

The Court: Three Schechters, and you mean which ones?

The Witness: Al, Aaron and Meyer, and Meyer Schechter opened the coop, took an ax and opened the coop, and he handed Dr. Gardner the birds, and he destroyed four of them. Two of them he said were on the border line, they could be condemned or they could be passed,

1896 they were doubtful, but he would let them go. Four were destroyed and denatured.

Q. Right then and there? A. Yes.

Q. Did they have—very well. I will withdraw that. Then what happened? A. Then Dr. Gardner walked right into the sales room, rear part of the sales room, and took his book out, his report book and proceeded to write out his report, and the Schechters noticed that he was writing out an F. F. A., and they started to yell and holler and swear, and ask him not to do it. He says——

Q. Just a minute, now. Tell us who said what. A. Every one of them. The three of them said, "Don't give us no F. F. A.; don't write this out."

The Court: What else did they say?

The Witness: Dr. Gardner said, "I cannot help it. I found unfit poultry and I have got to make a report on it." And they turned to me, and each one of them said, "If you tell him not to do it, he won't do it." 1898

I said, "I am not interfering in Dr. Gardner's duties."

Then they started in to yell at me, swear at me, and threaten me.

Mr. Heller: I object.

The Court: Strike out the word threaten.

Q. What was said.

The Court: What did they say to you?

A. Well, they—do you want me to use the exact language? 1899

Q. Yes. A. Well, they called me a son-of-a-bitch; told me he would break my neck; Meyer Schechter still had an ax in his hand that he had opened the coop with in the back, and he threatened to bury it in my skull.

Q. What did he say? A. He said, "I will take this ax," he said, "and I'll bury it into your skull." He said, "You'll never get out of this place alive."

Dr. Gardner——

Q. How about Aaron, what was he doing? A. I couldn't make out what he was doing. I was kind of upset myself.

1900

The Court: Anybody between you and the door?

The Witness: Well, the door was probably 70 feet away from me.

Q. What was Dr. Gardner doing during this time? A. Dr. Gardner edged out to the door and I——.

Q. Tell us all about this conversation. A. And I proceeded—I proceeded out after Dr. Gardner. Dr. Gardner had gone into the office to finish
1901 writing his report, and they came in after me, particularly Al Schechter, and he commenced to threaten me again, that he would break my neck——.

The Court: Don't use the word "threatened." I have already told you that.

Q. Don't use the word "threatened."

The Witness: I did not hear you.

The Court: I told you that and struck it out. Tell us what they said.

1902 The Witness: He said to me that I'll never leave the place alive, that he would break my neck if he got this ticket from Dr. Gardner. Dr. Gardner turned to me and said, "Ben, what are we going to do?" He said, "These fellows seem to be pretty excited." So I suggested——

The Court: Where were the defendants then?

The Witness: Well, Al was in the office and Aaron got away right outside the door of the office, so in order to pacify them, I said to Dr. Gardner, I said, "All right, Doc, just make a note that they

are amongst other apparently healthy birds." I said, "That is the best," and I said, "It don't appear as if you just had them isolated."

Dr. Gardner said, "That's a pretty good idea, and get away from this." And he wrote that information on his report. Then we walked out of the office. And they still commenced—they still used the same language, told me they were going to chase me out of the business. Al Schechter says that I would never live to do this again. Meyer Schechter says that he would get even on me; that I would find myself in some ash heap some day.

Q. Was anything said about the Code Authority? A. Said that they would chase Peterson out of business, he would have to pack——

Q. Who said that? A. Meyer Schechter said that Peterson and myself would have to pack our bags and go back to Washington; we were on top now, that they would get the best of us yet. And I explained to the three of them that we were just doing our duties; that if we had found nothing we wouldn't have done anything, as we were acting the same way in every other plant we visited. At that time I noticed Mr. Justis of the Agricultural Adjustment Administration, the auditor's office, come in just about that time, and he walked into the office, and I said to the Schechters, three of them, I says, "You are at liberty to go right with me and observe the method we use; it is the same in every plant that we inspect; we go over the plant in the same way, and if you want to come with me, you could come with me right now, and I would show you

1906 how we do it; we were not picking you out any different from anybody else."

Q. Then what happened? A. Well, Meyer Schechter volunteered to go, and he was dressed in overalls, and I says, "Well, change your clothes and I will take you with me." So Al says, "No, I will go with you." I said, "Come on, you are perfectly welcome," and the three of us got into the car, Dr. Gardner, Al Schechter and myself, and proceeded on the rest of our route.

1907 Q. Did you have any discussion with Al Schechter on the way? A. Not a word.

Q. What was the next thing you did? A. Well, we were supposed to go to, I think it was, Oster's place, yes, Oster's place, and then to Frenzel's place, but Dr. Gardner insisted that I make another stop at Joseph Schechter's plant, because he was not exactly sure that the poultry had been properly denatured, so I stopped at Joseph Schechter's plant first. Dr. Gardner went into the plant to observe whether the poultry had been properly denatured, and Al Schechter and my-

1908 self went over to an automobile in which Joseph Schechter was seated, and Al Schechter explained to Joe Schechter what had happened. Joe Schechter said to Al, he says, "What are you getting excited about? What is the use of kicking up a fuss? What are you afraid of?" He says, "If we are prosecuted," he says, "if we are convicted," he says, "we will use the $7,000 that we owe the commission merchants to pay for our attorneys and pay whatever fine is assessed against us.

Q. Joe Schechter said that? A. Yes, sir.

Q. That is Joe Schechter? A. Yes.

1909

Q. And Alex Schechter was standing by him? A. Yes, sir.

Q. He was talking with Alex Schechter? A. Yes, sir.

Q. Tell us the whole conversation. A. That is the conversation. I said, "Come on, are you going with me?" Joe Schechter said, "There is no use going with him, no, you go ahead yourself."

Q. After Joe Schechter told Alex Schechter that there is no use getting afraid, they would use the $7,000 that they owed the commission men to pay for any violation, did Alex Schechter say anything? A. No, he didn't say a word.

1910

Q. Did he do anything? A. No, he said I could go ahead myself, he wasn't going with me.

Q. Then he didn't go with you? A. No, sir.

Q. Did you do anything else at Joe Schechter's place? A. Seated in the automobile with Joe Schechter was one Max Resnick.

Q. Did he say anything? A. No, not a word.

Q. You are sure of that? A. Oh, yes.

Q. Mr. Forsmith, do you recall the meeting of the industry called by the Code Authority on May 15, 1934? A. I do.

1911

Q. Were you present? A. I was; not at the actual meeting.

Q. You were there at the place where the meeting was held? A. Yes, sir.

Q. Did you see the various people who went into the meeting? A. I did.

Q. Did you see any of the defendants go into that meeting? A. I did.

Q. Will you tell us which ones you saw? A. I saw Alex Schechter.

1912

Q. Point out Alex. A. Alex is the last one. Meyer Schechter, I saw him, and Aaron Schechter right alongside of Meyer; not Joe Schechter.

Q. You didn't see Joe Schechter? A. No.

Q. But you saw the other three defendants, did you? A. I did.

Q. Did you see them go into the meeting? A. I spoke to Aaron Schechter.

Q. What was your conversation? A. I asked him, I told him that I was trying to communicate with him for about a week so he would

1913

come up and sign the minutes of the election meeting held at the Federal Building on the 23rd of April.

Q. You remember that distinctly? A. Yes, I had been instructed to look for him.

The Court: Did he go with you?

The Witness: No; he said he would be up at the first opportunity.

Q. Had you ever discussed the Live Poultry Code with Joseph Schechter prior to the adoption of the Code? A. Very little.

1914

Q. Had he ever mentioned it to you, or had you ever mentioned the proposed code to him? A. He has mentioned it to me and I have mentioned it to him, yes.

Q. Prior to the adoption of the Code? A. That is right.

Q. Approximately when? A. About January or February.

Q. Of 1934? A. That is right.

Q. After the meeting of May 15, 1934, this meeting of 800 people of the industry— A. That is right.

1915

Q. When was the first time thereafter that you saw Alex, Martin and Aaron Schechter? A. On the 17th of May I saw——

Q. Two days later? A. Yes, I saw Al Schechter.

Q. Did you mention the Code or did they mention the Code? A. Yes, I visited the plant on 52nd Street.

Q. What mention was made by either side of the Live Poultry Code? A. I asked him if he had any trouble with any of the provisions of the Code, how business was going.

1916

Q. Who did you ask? A. Al Schechter.

Q. Were Martin and Aaron Schechter there? A. No.

Q. What did Alex say? A. He said everything was going off fine.

Q. Did you discuss any particular provisions of the Code? A. I did.

Q. What? A. Straight killing.

Q. Anything else? A. No.

Mr. Rice: That is all.

1917

Cross examination by Mr. Heller:

Q. Mr. Forsmith, you have nothing against the Schechters personally, have you? A. I have not.

Q. You are merely here testifying as a Government witness? A. That is right.

Q. Whatever you said was honestly the truth as far as you remember it? A. That is right.

Q. You are sure about that? A. Positive.

Q. Were you ever in this poultry business? A. Yes. sir.

Q. Before you came onto the Board, on the Code Authority? A. I am not on the Code Authority.

Q. You are an inspector, are you? A. Yes.

1918 Q. Liaison officer? A. That is right.

Q. What does that mean? A. I am an employee of the Code Authority.

Q. What do you understand by liaison officer? A. I do not understand anything by that.

Q. You do not? A. No.

Q. That is your title? A. Yes, there are no code authorities in the Live Poultry Code——

Q. Just a minute, now. Did you understand my question? A. Yes.

1919 Mr. Heller: Will the stenographer please repeat the question?

(The stenographer repeated as follows: "Q. What do you understand by liaison officer?")

Q. Is that your title? A. That is my title.

Q. Now, on East 52nd Street, did I understand you to say on direct examination that Dr. Gardner first made an inspection and he found nothing there? A. That is right.

Q. And then you checked up on Dr. Gard-
1920 ner? A. I went further, I went into the storage room.

Q. And you made a close search? A. No; he did not go into that part of the premises.

Q. Do you know the question that I just asked you? A. He did not find it.

Q. You were the first one to find it? A. That is right.

Q. And you called it to his attention? A. That is right.

Q. You did not trust this search? A. I would not say I would not trust his search.

Q. You were not satisfied with the search? A. He did not understand the tricks of the trade like I do.

Q. You understand all the tricks? A. Yes.

Q. Where were you in business before? A. At No. 395 Lexington Avenue.

Q. Is that Manhattan? A. No, Brooklyn.

Q. Were you a competitor of the Schechters? A. No.

Q. Have you any interest in the business now? A. No, sir.

Q. Did you turn it over to any relatives? A. I did.

Q. Who? A. My brother.

Q. And you are on the Code Authority? A. 1922
Yes.

Q. Getting a salary? A. Yes, sir.

Q. How much? A. Fifty dollars a week.

Q. And did you at any time get any more than fifty dollars a week? A. Well, I get twenty-five dollars allowance for my automobile and incidental expenses.

Q. So you are drawing seventy-five a week? A. Yes.

Q. And that money comes to you from the industry? A. The Industrial Advisory Committee. 1923

Q. I mean in the way of assessment——

Mr. Rice: Now, if your Honor pleases, Mr. Peterson was cross examined at length the other day and Mr. Peterson stated that all of the funds come from the industry.

The Court: I do not think you need to go much further into that, Mr. Heller.

Q. Is it your recollection that at 52nd Street you found coops in the back of the storage room, coops filled with chickens? A. When?

1924 Q. At the time you were with Dr. Gardner for the inspection. A. I did not say I found coops filled with chickens.

Q. Well, how many coops filled with chickens were in the back room? A. There was one coop that had approximately 20 leghorn fowl, and another coop below that that had about 6 unedible birds, in my opinion.

Q. In your opinion? A. Yes.

Q. Now, you know what an unedible bird is, do you? A. I do.

1925 Q. And did you make a memorandum of what transpired on that day? A. I did.

Q. And did you specify whether or not, in your memorandum, the coops that the chickens that were condemned were in were isolated? A. Yes.

Q. Did you make such a memorandum? A. Yes.

Q. That is true, isn't it? Now, do you say that on May 24th you were at the Schechters three or four times that day? A. Once.

1926 Q. On the 25th how many times? A. I wasn't there.

Q. On May 29th? A. Yes, sir.

Q. You started at 6:45 in the morning? A. That is right.

Q. And you came back three times? A. No, sir.

Q. How many times? A. Once.

Q. How many times did you inspect the Schechter's places in the month of May, from May 16th on? A. Probably three or four times.

Q. May 16th is the time the Code became operative in the industry? A. Yes.

1927

Q. And on the 17th you had already been at the Schechter's? A. I was in that area.

Q. You have no particular grudge against them, have you? A. No.

Q. And you were in great fear when the Schechters asked Dr. Gardner to make a memorandum? A. Yes, sir.

Q. You were in a great fear——

Mr. Rice: What do you mean by that?

Mr. Heller: I will withdraw that question.

1928

Q. Now, when you made the find in the back of the room—the store room—of these chickens, did you say that one of the Schechters immediately threatened you at that time? A. No, sir.

Q. Nothing was said then? A. No, sir.

Q. You came up front? A. No, we did not come up front.

Q. Where did you go from there? A. To the rear of the salesroom.

Q. What do you mean by the salesroom? A. Where the poultry is held for sale and slaughtered.

1929

Q. In other words, the salesroom in a poultry market is really the place where the poultry is stored? A. Supposedly.

Q. It is an open, big room; about how big is that room? A. About seventy feet.

Mr. Rice: Which place is this at?

Mr. Heller: 52nd Street.

The Court: You are talking now about the room where poultry is sold and slaughtered?

Mr. Heller: Yes.

1930 Q. That is designated as the salesroom? A. Yes, sir.

Q. What is the size of that? A. 22 by about 70 feet exclusive of the killing room and the slaughtering room.

Q. It is a big room? A. Yes.

Q. And it has a big gate before you can come in? A. Yes.

Q. And a truck can pull in? A. I imagine so.

Q. So that in the middle of the room someone picked up a hatchet and threatened to kill you?

1931 A. Not in the middle of the room, no one in the middle of the room picked up any hatchet and threatened to kill me. He had an axe in his hand when he opened that coop of culls.

Q. He took the axe and opened the coop? A. Yes.

Q. Now, where did he take the axe from? A. I don't know.

Q. Did you see him take it? A. No.

Q. Did you ask him to open the coop? A. We wanted it opened.

1932 Q. Did you have him under your observation all the time? A. Who?

Q. The person who had the axe, Meyer? A. Not particularly, no.

Q. You just asked that the coop be opened? A. That is right. Meyer got the axe and opened the coop.

Q. And he had the axe with him? A. That is right.

Q. And then he came back? A. Yes.

Q. And how far had he proceeded from the storage room—— A. Are you talking after he opened the coop?

Q. Before the argument ensued—how far did he proceed from the storage room with the axe in his hands? A. I don't get your question.

Q. Well, what happened after he opened the coop? A. The poultry was slaughtered.

Q. You mean condemned? A. No, first it was slaughtered.

Q. What poultry? A. These uneclible birds.

Q. For what purpose? A. To be destroyed and denatured.

Q. For the purpose of ascertaining whether they were diseased? A. No, that could be ascertained before they were slaughtered. 1934

Q. Did you have to slaughter them to denature them? A. Why, naturally.

Q. Well, what happened after that? A. Then Dr. Gardner proceeded to the rear of the salesroom.

Q. Where is that? A. Right adjoining the storeroom.

Q. Back of the store? A. Yes.

Q. Back of the entire plant? A. No, there is a big wide door between the salesroom and the storeroom, a door probably about 15 feet wide. 1935

Q. Do I understand after the chickens are slaughtered they go out of the storeroom? A. Yes.

Q. Then where did you go? A. I followed Dr. Gardner to a little alcove right in the rear of the salesroom.

Q. What transpired there? A. Dr. Gardner proceeded to write out his report, his F. F. A.

Q. And do you know whether he wrote it up at that place? A. He did.

Q. Isn't there a little office in the place? A. There is a little office in the front of the premises.

1936 Q. Right in front? A. Yes, sir.

Q. The complaint wasn't written out in the office, was it? A. Not entirely.

Q. Part of it was written out in the rear? A. That is right.

Q. Did he then and there take the axe and threaten you with it? A. Al Schechter was the one that started to do that.

Q. That was right at that place? A. Yes, sir.

Q. What did he say? A. Well, he called me a son-of-a-bitch and a bastard, told me he would
1937 break my neck, told me he would break my arms, told me he would break my legs.

Q. Did he put his hands on you? A. No, he did not.

Q. Did he hit you with the ax? A. No, sir.

Q. Did he strike you? A. No, sir.

Q. Nothing was done to you? A. No, except I backed up against the wall so no one could get behind me.

Q. You backed up against the wall? A. Yes:

Q. With your hands up? A. Oh, no, I didn't have my hands up.

1938 Q. Did he make any attempt to strike you? A. Well, he waved the ax and the other fellow waved his arms.

Q. How far was he from you when he waved the ax? A. Probably a foot.

Q. Just one foot? A. Yes, sir.

Q. Did you feel his breadth? A. Yes, sir.

Q. Right on top of you? A. Yes, sir.

Q. And you didn't run away? A. I couldn't run away, they had my back against the wall.

Q. Who did? A. All three of them.

Q. They surrounded you there, is that it? A. That is right.

1939

Q. They wouldn't let you go? A. They had me surrounded, and then Dr. Gardner went back to to the front of the building.

Q. He ran out, did he?. A. Yes.

Q. Into the office? A. Yes.

Q. And he stayed in the office, did he? A. That is right.

Q. He didn't run for a policeman, did he? A. No.

Q. He didn't—— A. Dr. Gardner is a police officer himself.

1940

Q. He did not make any arrest, did he? A. No.

Q. He remained in the front office? A. Yes.

Q. That was the place where he continued to write out his report, was it? A. When he got there, yes.

Q. You got in there safely, did you? A. That is right.

Q. No harm done to you? A. Well, I was pretty scared.

Q. You were pretty scared, but you didn't run away, you went into the office. A. I went into the office.

1941

Q. The office is right next to the exist? A. Yes.

Q. Just a foot or two, isn't it? A. About five feet.

Q. You weren't running away in your car? A. I went in the office.

Q. The gate wasn't locked, was it? A. No, sir.

Q. Nobody locked you in there? A. No, sir.

Q. Nobody prevented you from leaving the premises? A. Oh yes, they surely did.

Q. They went ahead of you? A. Yes.

1942 Q. Ran right up to the gate? A. Yes. And then I got into the office and edged out of the office, when I could.

Q. Which one of the Schechter brothers went through the gate ahead of you? A. Mr. Al Schechter followed me in.

Q. Did he throw you into the office? A. He didn't throw me, no.

Q. He followed you in? A. He followed me right in there, I ducked into the office.

1943 Q. What do you mean you ducked? A. I wanted to get in where they wouldn't have so much opportunity to surround me again.

Q. You felt the office was a haven for you, is that it? A. Yes.

Q. A place of safety? A. Yes.

Q. And that was the office? A. That is right.

Q. They didn't close the door on you, close you in? A. No.

Q. They didn't shut the door? A. He come in right behind me.

Q. And it was there that Dr. Gardner was writing out his report? A. Yes.

1944 Q. Did he get it written out? A. After I suggested to Dr. Gardner that he add the additional phraseology of——

Q. What phraseology did you ask him to write? A. That amongst those apparently healthy birds he found these birds.

Q. That was a lie, was it? A. That was Dr. Gardner's findings.

Q. Is that the truth? A. Yes.

Q. It was the truth? A. Yes; I didn't agree with it, though.

Q. So when they made the demand that that be written in there— A. They didn't make the demand.

Q. You suggested that it be put in there so that you could get out of there? A. It was Dr. Gardner's idea; I did not agree with it.

Q. You were afraid for your life? A. Yes.

Q. After he put that in they were satisfied, were they? A. No, not quite.

Q. Not quite satisfied? A. That is right.

Q. But they left you get out of there? A. I did get out. 1946

Q. You were not afraid then? A. I am not afraid of them equally.

Q. You were not afraid of them getting into your automobile with you? A. No, not one man against one, provided the other fellow didn't have an ax.

Q. You are not afraid of any one of the Schechters, are you? A. Not individually, no.

Q. You are not, are you? A. No.

Q. You know them for a good many years? A. I know Joe Schechter a good many years.

Q. Did you ever see him hurt anybody? A. 1947 No.

Q. Did you ever see him kill anybody? A. No.

Q. Did you ever see him in any fist fights? A. No.

Q. You said on direct examination that on May 24th, I believe that is the date, you took certain labels off of coops. A. I didn't take the labels off.

Q. The numbers off the coops, pardon me. A. Yes.

Q. That was May 24th? A. That is right.

Q. Is that correct? A. That is right.

1948 Q. Will you tell us the purpose of doing that? A. Well, it kind of struck me funny that these coops were all cleaned up and fit after the poultry had been slaughtered out of them, and the coops had not been moved.

Q. Do you do that on all occasions? A. Whenever I am suspicious, yes.

Q. You were suspicious of the Schechters? A. Of that incident I was.

Q. Of that particular incident? A. Yes.

1949 Q. Did you tell them that you were going to take the numbers off? A. I did not.

Q. You did that separate and apart, did you? A. Yes, sir.

Q. You were all alone when you did that? A. I was in there by myself, yes.

Q. You did it all by yourself? A. I did not.

Q. You sneaked in? A. I did not

Q. Who was there? A. I had gone into the office previously, and they knew that I was there, I had sent word that I was there.

Q. You went into the office first? A. Yes.

1950 Q. And then you told them you wanted to go into the back part? A. I just walked in.

Q. Have you any interest in that place? A. That is being a Code Authority investigator, that is all.

Q. Were any chickens being slaughtered then? A. No.

Q. Was any business being conducted? A. No.

Q. You just walked in the back? A. Yes.

Q. Did you have any trouble with any of the Schechters at that time? A. There was only one Schechter present at that time.

Q. Which was that? A. Meyer Schechter.

Q. He was in the office? A. He was in the office.

1951

Q. And he wasn't walking through the plant? A. That is right.

Q. Is that right? A. That is right.

Q. What happened with the coops——

The Court: I suppose we had better stop with that, it is about one o'clock. Gentlemen, do not allow anybody to talk to you about this case, do not discuss it among yourselves, keep your minds open until it is finally submitted; be back at two o'clock.

1952

(Adjourned to 2:00 P. M.)

(Met pursuant to adjournment at 2 P. M.; present as before.)

BENJAMIN FORSMITH, resumed the stand.

Cross examination continued by Mr. Heller:

Q. Mr. Forsmith, will you explain to the jury what happens with those labels—what happens to the coops after they empty the poultry? A. Well, if the coops are their own, they just keep them.

1953

Q. They keep them? A. Yes.

Q. Then when another inspection is had, they are relabeled? A. No, they take the coop back; supposed to clean the coop, disinfect it.

Q. As far as labels are concerned? A. As far as coops are concerned.

Q. I am talking about labels. A. And they are supposed to put a new label on, yes.

Q. That is, the inspector does? A. Yes.

1954 Q. Occasionally he pastes one over the other? A. That is right.

Q. Do you know there is a company that buys these coops? A. No, sir.

Q. You don't know that? A. No, sir; the company does not buy them, no; the company rents them.

Q. In other words, those are rented coops? A. These coops are rented coops, yes.

Q. They do not belong to the Schechters? A. They did not, no.

1955 Q. And you rent these coops from time to time from this company for the purpose of putting chickens in there? A. I do not know just what Schechter does, what arrangement Schechter has with the company for it.

Q. That is the usual business, isn't it? A. It is not.

Q. Did you ever buy coops, rent coops? A. I did not.

Q. You never rented coops? A. No.

Q. Do you know of any other market men who rent coops? A. I don't.

1956 Q. Is it done at all? A. Yes, commission merchants.

Q. So that the same coops are used from time to time, are they not, after they are disinfected? A. The coop company rents the coops to the commission merchants.

Q. They do not destroy them after one load of merchandise is packed in there and emptied, do they? A. They do not.

Q. Regular crated coops, boards, nails in them? A. Slats.

Q. And so that when you are through with one shipment you disinfect it and then you bring it

back again down to the market and load it? A. No, sir.

Q. What do you do with the coops after they are emptied? A. Supposed to bring them to the yard of the coop company.

Q. What do they do with them? A. They repair them.

Q. And after repairng them? A. Disinffect them and clean them.

Q. And then they are used all over again? A. Maybe sometimes that week and sometimes a month later. 1958

Q. But they are used from time to time? A. That is right.

Q. Depending on the number needed? A. Yes.

Q. And the number to be used, and the number of the demands? A. That is right.

Q. Is it infrequent that a market man will keep coops in their premises for a few days after they are empty? A. Generally they like to get them out as fast as they can.

Q. There is nothing to stop them keeping them for a few days, is there? A. No, sir.

Q. You have a brother, haven't you? A. Yes, 1959 sir.

Q. And he was employed by the Schechter Brothers, wasn't he? A. Yes.

Q. And he was fired the day after the Code came into effect? A. I don't know.

Q. Is he still with them? A. No.

Q. Do you know when he was fired? A. No.

Q. You are sure that he was fired? A. Oh, yes.

Q. Do you know when he was last employed by them? A. No.

Q. You never see your brother? A. Oh, I do, occasionally.

1960 Q. Did you talk to him at any time about the Schechters? A. No.

Q. Did you ever mention anything about his employment with them? A. No.

Q. Now, I understood you to say that when you came to 991 Rockaway Avenue you found Mr. Joseph Schechter in an automobile? A. When is that?

Q. After you left the 52nd Street place. A. On what date?

1961 Q. On the date that you were there. A. I was there on June 28th.

Q. Well, when was it you found Joseph Schechter in an automobile? A. On two occasions.

Q. What are the dates? A. May 29th and June 28th.

Q. Do you know what he was doing in the automobile? A. No.

Q. Do you know that he was crippled? A. I know that he had had an accident.

Q. Don't you know that he had to have crutches to get around? A. No.

1962 Q. You never saw him with crutches? A. No.

Q. You never saw him with a cane? A. I believe I did see him with a cane.

Q. Didn't you see him as late as June 18th with a cane, at the office of Mr. Peterson? A. I don't remember whether he had a cane.

Q. Did you see him after May 29th with a cane or with crutches? A. I cannot say.

Q. But on each occasion you saw him you saw him in an automobile? A. On those two occasions.

Q. It was not in his place of busines? A. No.

1963

Q. Did you say that the 991 Rockaway Avenue place closed in August? A. I saw him in his place of business on June 28th, I want to correct that.

Q. Not in his automobile? A. Not in his automobile.

Q. Are you sure about that? A. That is right.

Q. Now, you say that the place closed in August of 1934? A. I believe that is the time.

Q. Wasn't it July 4th? A. I am not sure.

Q. Did you go to the place after that? A. I did not.

1964

Q. After June 23rd you never went to see him? A. Not June 23rd at all, June 28th.

Q. You did not go near him after that? A. That is right.

Q. Well, when was it that he told you that he was going to use this $7,000 of the market men's money to pay for his defense? A. He did not tell it to me, he told it to the brother Al in my presence.

Q. Had the prosecution begun already on that day? A. I cannot say; I had nothing to do with the prosecution.

1965

Q. Did Mr. Peterson tell you to go out and get evidence against these boys? A. He did not.

Q. Did I understand you to say that in the latter part of May, you made a tour of all the market people; is that correct? A. That is right.

Q. And you did the same thing with reference to the Schechters on your own volition? A. No, sir; I was an investigator ordered to cover all the slaughter houses or as many as I can.

Q. And to see how things were functioning? A. That is right.

Q. Now, that was when? A. When the Code started.

Q. May 16th? A. Yes.

Q. On May 17th you did that? A. Yes, sir.

Q. And those were instructions merely to go from place to place? A. The only time I got any further instructions was on the 23rd of May, when Mr. Dale told me to go to the Schechter's plant to find out who was operating each plant.

Q. And did he tell you for what purpose? A. No, he just told me to go and get it. He did tell me that there had been complaints about the Schechters.

1967 Q. He wanted you to get their names? A. He told me further that the Schechters had stated that they intended to violate the Code.

Q. He told you that on the 23rd? A. Yes, sir.

Q. Now, you are sure about May 23rd? A. That is right.

Q. You say as late as January or February of 1934, before this Code came into effect, you had had a discussion about it with Joe Schechter? A. I discussed this with Joe Schechter amongst nearly every operator in the industry.

Q. You knew him at that time? A. Yes, I

1968 did.

Q. Friendly with him? A. Yes.

Q. Is he respected in the industry? A. I couldn't be qualified to say.

Q. You don't know anything bad about him? A. I know he is a chiseler, if you mean that.

Q. What do you mean by a chiseler? A. He will take advantage of every opportunity, to take advantage of his competitors.

Q. You mean he would like to make a dollar? A. I don't mean that, no.

Q. You don't mean that? A. No, not making a dollar. Trying to make a living, making a dol-

lar, does not make a man a chiseler, but a man who will take advantage of anybody that is a chiseler.

Q. He has taken advantage of people as early as January? A. Since I have known him.

Q. Do you remember any time when he helped you financially years ago? A. He never helped me financially at all.

Q. He did not help you in your business? A. No. He was a customer of mine and he was a chiseler when he was a customer.

1970

Q. And didn't he get you credit from anybody? A. No.

Q. You are positive? A. Positive.

Q. And you are not in business now? A. I am not.

Q. About how many inspectors did you have in the month of June under your supervision? A. About ten—eight—ten.

Q. Month of June? A. Yes.

Q. Sure about that? A. Yes.

Q. Just about what time do the most of the slaughter houses kill their chickens? A. Depends on the day of the week. Monday, Tues-

1971

day or Wednesday, from seven to eight a. m.

Q. In the morning? A. That is right.

Q. On Thursday? A. From about six o'clock in the morning.

Q. Until when? A. Five o'clock in the afternoon.

Q. And on Friday? A. Six in the morning, to twelve noon.

Q. Do anything on Saturday? A. Just Saturday night.

Q. Anything on Sunday? A. Some sections of the city do.

1972 Q. In the Borough of Brooklyn? A. The Brownsville and East New York sections of Brooklyn.

Q. They do that? A. Yes.

Q. About how many slaughter houses do you observe, come under your supervision? A. I don't understand. What do you mean under my supervision?

Q. Under yours, and your investigators. A. Every slaughter house in the metropolitan area.

1973 Q. How many? A. There are approximately 325 I would say.

Q. There isn't any question with reference to 325, that on Monday most of the work is done between six and seven? A. Seven and eight.

Q. No question about it during the same hour on Tuesday? A. That is the slaughtering period?

Q. Yes. A. Yes.

Q. And on Wednesday? A. That is right.

Q. All with the exception of Thursday? A. That is right.

Q. And how many inspectors did you have posted at the Schechters' places in the month of
1974 June? A. In the month of June I had—I didn't post anybody. All postings was done by our attorney, who was director of compliance.

Q. He posted some of them? A. Yes, he did.

Q. How many? A. He posted three.

Q. Three out of ten were posted at the Schechters? A. That is right.

Q. When was the day that you spoke of when you went—when one of the Schechters held a hatchet in his hand? A. Oh, June 28th.

Q. On June 28th? A. That is right.

Q. Did you come to that place after June 28th? A. I did not.

Q. 52nd Street? A. I didn't—that was 52nd Street—I didn't.

Q. Didn't come there then. Did you send anyone else then? A. No, I had nothing to do with the investigators whatsoever.

Q. Do you know whether any were sent there after that day? A. I don't believe there was. There was one there on June 28th.

Q. Same day? A. I arrived at 991 Rockaway Avenue and right away I met our investigator there and he informed me the Schechters had thrown our investigator out of 52nd Street premises. 1976

Q. On the same day? A. Yes.

Q. They used a hatchet again? A. I don't know what they done. When I asked Al Schechter where our man was, he said he got tired of waiting and went away.

Q. You asked him on that day? A. Yes.

Q. What time of day was that? A. About 8:30—about 10:30.

Q. Was it after the first incident? A. No, that was just the commencement of the first incident, when I arrived at the premises. 1977

Q. That was before this incident occurred? A. Yes. I asked him where our investigator was. He said he had tired of waiting around and gone home.

Q. So you did send one investigator there in the morning? A. I had not.

Q. One was there? A. Supposedly.

Q. You knew about it? A. I only knew when I got to 991 Rockaway Avenue I found out the Schechters had thrown our investigator out of the premises.

1978 Q. From whom did you find that out? A. Our investigator at 991 Rockaway Avenue.

Q. There was one there at the time? A. There was.

Q. On June 28th? A. That is right.

Q. And you asked him about it? A. I did not ask him about it. He volunteered the information.

Q. Was he present at 52nd Street when the other investigator was thrown out? A. He wasn't, I don't believe so.

1979 Q. He got his information from someone else? A. That is right.

Q. Passed it on to you? A. I don't know where he got his information, but that is what he passed on to me.

Q. That is how it came to your knowledge? A. Yes.

Q. You did not see it with your own eyes? A. I did not.

Q. Then you went to the 52nd Street place, is that correct? A. I did.

1980 Q. So that we have three there plus the doctor, making it four, on that morning, is that correct? A. It is not correct.

Q. What is the fact? A. There was one man there and the doctor and myself. That makes three.

Q. And the other one at 991? A. Well, he was at 991 Rockaway Avenue.

Q. That makes it four. A. Four where?

Q. At the two places. A. Yes.

Q. Anybody at Snediker Avenue? A. There was no one there when I arrived.

Q. Do you know whether there was anyone there that day? A. I couldn't say.

1981

Q. Did you say on direct examination on the 29th you asked the Schechters how was it—— A. Will you be specific as to your dates, what month?

Q. 29th I am talking about. A. The 29th of what?

Q. May 29. You said you had a conversation with the Schechters. A. Yes?

Q. Did you tell them then that he had a certain number of coops the day before? A. I did.

Q. Will you give us that conversation again? 1982
A. I said I understand that you had 18 coops on the premises at four o'clock yesterday. I said I observe now——

Q. Meaning the 28th? A. The 28th. I observe now 62 coops in addition to the 59 baskets in the rear of the premises.

Q. Who told you they had so many coops on the 28th? A. One Sam Cohen, an employee of the Schechters.

Q. He told you that? A. He told me that they had 18 coops when he went home at four o'clock.

Q. When did you ask him that? A. On the 29th. 1983

Q. You came there on the 29th in the morning? A. Yes.

Q. What time? A. Quarter of eleven.

Q. And the first thing you did was ask Sam Cohen how many coops they had the day before? A. No.

Q. When did you ask him that? A. After I went and observed the 59 baskets in the back of the premises I noticed the empty coops that I had identified were full of poultry and bore no current inspection labels on any of them. I asked Sam Cohen what was there in the premises

1984 when he left Monday evening, and were them 21 coops full or empty when he left the place, and he told me that these 21 coops were empty when he left the premises on Monday at 4 o'clock.

Q. Am I right in understanding you to say that 21 coops had no labels at all on them? A. They did have labels on them dated May 23rd.

Q. Beg pardon? A. Dated May 23rd.

Q. Is it possible to keep chickens from the 23rd to the 29th? A. Possible, yes, but there
1985 were no chickens there when I noticed the coops on the 24th.

Q. Did you count all the chickens there on the 24th? A. I did not, but I observed these 21 coops were empty.

Q. Do you know what you observed at any other place on the same day? A. On the 24th?

Q. Yes. A. No, I did not go to any other place, I was sent primarily to find out some information from Schechters.

Q. When you inquired at the Inspection Serv-
1986 ice whether there were any baskets inspected that day you got the information there were 65 inspected? A. That is right.

Q. And how would the inspection labels appear, would they be pasted on the baskets, how would they appear on the baskets? A. Either pasted on one of the cross pieces or one of the long pieces.

Q. Is it possible to take out chickens from the coops and place them in the baskets? A. Is it possible to take chickens out of a coop and place them in a basket?

Q. Yes. A. Of course.

1987

Q. You do not know what was done in this case, do you, excepting what you found? A. Excepting what I believe was done.

Q. I am asking you do you know exactly what was done before your coming there? A. I have reason to believe that I know what was done, yes.

Q. That is your personal opinion? A. No, I believe that they received poultry from Philadelphia and did not have them inspected.

Q. Did you go to Philadelphia to find out whether they did or not? A. I did.

1988

Q. You went to Philadelphia, did you? A. I did, surely.

Q. Made a special trip there? A. Yes, twice.

Q. And you found out that this poultry was not inspected? A. I did, and found out who it was that bought it, who they bought it from, who delivered it, where it went and the order that was received.

Q. Did you examine this poultry? A. When?

Q. On the 29th. A. I looked at it, yes.

Q. Did you find anything wrong with it? A. No.

1989

Q. All good stuff? A. Apparently.

Q. You didn't find any diseased chickens in there, did you? A. I did not.

Q. Now, Dr. Gardner left a ticket, when he left an F. F. A. at the premises, did you receive a summons? A. No.

Q. Do you know that Dr. Gardner issues summonses? A. He has no authority as I understand to issue summonses.

Q. He has no such authority? A. No.

Q. Although he is a public health inspector? A. That is right, the officers of the Board of Health, the inspectors do not have authority to issue summonses.

1990 Q. You know that to be a fact, do you? A. I am informed that it is to prevent graft, at one time it happened that the men who did that were taking graft, and in order to prevent that they are not allowed to issue summonses now.

Q. You mean the Health Department inspectors were grafting? A. At one time, yes.

Q. Isn't it a fact that Schechter said to you, "Why do you give me a ticket when we place this stuff separate and apart from the other stuff because we did not mean to sell it"? A.

1991 He did not.

Q. Didn't he say something like that to you? A. Of course not.

Q. Are you sure when Dr. Gardner asked the Schechters whether they had any culls, that the answer was they did not? A. Dr. Gardner did not ask them, I asked them.

Q. Are you sure of that? A. I am positive.

Q. And if Dr. Gardner said he did he wasn't telling the truth? A. He was just mistaken, that is all.

1992 Q. You give him the benefit of the doubt? A. That is all.

Q. But you were right? A. I believe I am.

Q. There is no question about that? A. That is right, that is my procedure in every place that I visit, to ask first if there are any culls.

Q. And you saw that there were quite a number of crates with poultry in, did you not? A. When?

Q. On the 29th. A. The 29th of May?

Q. Yes. A. That was the time that there was uninspected poultry——

Q. I am referring to the time when you found the hidden basket. A. That was June 28th.

Q. Then let us take June 28th, that was on a Thursday? A. That is right.

Q. There was a lot of poultry in the premises, was there not? A. There were probably about 40 coops or 50 coops of poultry.

Q. About how many chickens would that be? A. Divide that by about 35.

Q. About 2,000 would you say? A. About 1,700 that would be.

Q. Do you know that Dr. Gardner had inspected all those crates? A. I know that he didn't inspect them, he just walked down the 1994
line and looked at them casually.

Q. He didn't condemn any from the crates, did he? A. We weren't going around looking at the chickens in those crates to condemn them, when a man has a few diseased birds in a crate that may happen. We were looking for isolated birds that they had placed apart in the premises. It may be possible for a man to have a sick chicken among 25 in a crate or among 35 and not know it. What we were primarily interested in was whether or not they had isolated any of the
birds, because then we knew that they had ex- 1995
amined them and found that the chickens were sick.

Q. Had any sale taken place when you were there? A. No, sir.

Q. Your assumption was that they would be sold? A. What is that?

Q. Was that your assumption? A. That is the Board of Health's assumption.

Q. You didn't see any sale take place, did you? A. I did not.

Q. You are sure about that? A. That is right.

1996 Q. You have made quite a number of inspections at different times? A. I have.

Q. What is the nearest place to 52nd Street? A. I really believe the nearest place to 52nd Street is 991 Rockaway Avenue.

Q. About how far away is that? A. About twelve blocks I would say offhand.

Q. That is the Schechter Market? A. That is right.

Q. That is the nearest one? A. That is right.

1997 Q. How far away is Brownsville, the next one? A. Well, I would call all that Brownsville. Some people call it East Flatbush, but I call it all Brownsville.

Q. Isn't that East Flatbush, East 52nd Street? A. That is East Flatbush.

Q. 858 East 52nd Street? A. That is two blocks off Utica Avenue.

Q. Near Foster Avenue? A. That is right.

Q. An isolated place? A. Kind of, yes.

1998 Q. Did I understand you to say on direct examination that when Dr. Gardner asked Joe Schechter for permission to kill those chickens, he said he wanted to take them to New York? A. Dr. Gardner asked nobody's permission; Dr. Gardner ordered this poultry to be destroyed.

Q. He said he would not do it? A. Joe Schechter was not on the premises.

Q. There was something on direct examination that you said about someone wanting to take the poultry to New York. A. Joseph Schechter arrived after the poultry had been destroyed, and he said the reason he did not want to denature them was because he wanted to take them to New York and receive a credit.

1999

Q. From a commission merchant? A. Yes; but that is not the practice——

Q. I didn't ask you that, did I? A. No, I volunteered that.

Q. He told you that he wanted to take them to New York? A. Yes.

Q. And that is all that transpired then, wasn't it? A. That is right.

Q. Do you know what an accommodation sale or purchase is? A. I do not.

Q. Did you ever hear of it in your industry? A. No.

2000

Q. Did you ever hear of a man going to a market and buying some stuff for somebody else, for accommodation? A. I never heard it called that.

Q. Is that done at any time? A. Not to my knowledge.

Q. You are quite familiar with this industry? A. Yes.

Q. You have been active in the business for quite some time? A. I represented this industry for the last four years.

2001

Q. And you have testified in cases of disputes between poultry people? A. I have.

Q. Always in the middle of things? A. Since 1931 I was representing the industry, petitioning the Federal Trade Association to declare fair trade practices in this industry.

Q. Were you at any time a representative of the Association that was composed of the— A. Yes, sir.

Q. And the members were required to pay $500 a year? A. No, sir, they weren't required to pay anything; they paid according to the volume of business.

2002 Q. Schechter never wanted to come into your organization, did he? A. Yes, he has been a member at various times.

Q. You say he has been a member at various times? A. Yes; he signed an application to pay $400 a year some time in 1933, I believe around November.

Q. And did he become a member? A. Yes.

Q. Was he admitted? A. There was no such formality; you were a member if you were willing to pay the dues.

2003 Q. And he was a chiseler because he would not pay the dues? A. No, I didn't say that.

Q. You would not call him a chiseler for that? A. No.

Q. Did you, at a meeting recently, state that the only one that benefited by this Code was you and Peterson? A. Of course not.

Q. Did you ever meet at the Acme office? A. Did I?

Q. Were you present at a meeting there? A. There was no meeting, there might have been a conference.

2004 Q. Were you present? A. What date?

Q. When was the recent one that you had? A. About four weeks ago.

Q. Were you chairman of that meeting? A. There was no chairman.

Q. Were you at the head of the meeting? A. The meeting was for the purpose of getting the industry's reactions to certain amendments to the Code.

Q. And did you at that meeting state that you and Peterson were the only ones getting the benefit of the Code? A. I don't remember making that statement.

2005

Q. You wouldn't say no, would you? A. I would not say no.

Q. Do you know the Jewish name for Martin? A. I don't; I know him as Meyer.

Q. Well, isn't it the fact that the Jewish name for Martin— A. I don't know whether or not Martin is a Jewish name.

Q. Have you ever heard the name Martin used in connection with Jewish names? A. Yes; Meyer is not a Jewish name.

Q. It is not? A. No.

2006

Q. You have never heard of the word Meyer? A. I have heard it; it is not a word, it is a name. It may be a German name, a man may be a German and named Meyer.

Q. First name? A. Absolutely; there is no law against it.

Q. Do you know that it is characteristic of Jewish and Italian people to talk with their hands, not infrequently? A. Yes.

Q. And when Schechter was holding that hatchet and was trying to explain about the coops he did this with his hands (indicating)? A. He was using those hands, but he wasn't doing any gesticulating, he was ready to attack me and it just needed the drop of a pin to start a fight there and somebody would have been hurt.

2007

Q. It only needed the drop of a pin to do that? A. Yes, and it was my presence of mind by keeping quiet.

Q. And you disarmed him by being silent? A. By being quiet, right.

Q. Now, did I understand you to say that you brought back a different investigator for the

purposes of checking the numbers that you took down on a piece of paper? A. That is right.

Q. You did not believe yourself? A. I wanted to be sure I was correct.

Q. You wanted corroboration? A. That is right.

Q. And you wanted to make sure that you could pin them on him? A. No. The enforcement of the Code is not one of my duties.

Q. Well, does your salary depend on the Code being in existence? A. Naturally my salary with

2009 the Code.

Q. If there were no Code, you would not be getting any salary? A. I would not be getting any salary with the Code.

Q. You have no business now, have you? A. Not now, no, sir.

Q. Do you remember meeting at the Park Manor recently? A. No, sir.

Q. No such place? A. I never met in the Park Manor.

Q. How about the Park Mansion? A. I never heard of the Park Mansion.

2010 Q. You don't know anything about it? A. I don't know of a Park Mansion.

Q. Do your remember a meeting when the question of price fixing was discussed? A. Price fixing?

Q. Yes. A. No question of price fixing.

Q. Do you remember when it was discussed? A. Do you mean the hearing called by the Agricultural Adjustment Administration?

Q. No, a meeting at which you were present which I understand was at the Park Manor, but that may be not right, but do you remember that recently? A. I do not.

2011

Q. Was there any such discussion at any time during the last month or two? A. What discussion?

Q. About price fixing? A. No, never anything about price fixing.

Q. You are sure about that? A. Positive.

Redirect examination by Mr. Rice:

Q. Mr. Forsmith, on these occasions when you went to 991 Rockaway Avenue and 858 East 52nd Street, were you there in connection with your duties as an investigator for the Live Poultry Code Authority? A. Yes, sir.

2012

Mr. Rice: That is all.

(Witness excused.)

IRVING H. DALE, called as a witness on behalf of the Government, having been duly sworn, testified as follows:

Direct examination by Mr. Rice:

2013

Q. Mr. Dale, what is your profession? A. I am a lawyer.

Q. How long have you been a lawyer? A. Three years.

Q. With whom are you associated? A. Arthur M. Loeb.

Q. Were you and Mr. Loeb retained as counsel for the Live Poultry Code Authority? A. We were.

Q. Commencing when? A. From the early part of May of this year.

Q. How long did you continue in that capacity? A. Until about two weeks ago.

2014 Q. Were you present at the meeting of the Live Poultry Industry at the Code Authority office on May 15, 1934? A. I was present at such a meeting. It was not at the Code Authority office. It was in the Federal Building.

Q. It was in the same building as the Code Authority's office? A. Yes, a large assembly room.

Q. Approximately how many people from the industry were present? A. Well, the room was crowded. There must have been about seven
2015 or eight hundred people there, I guess.

Q. Do you know who the speakers at that meeting were? A. Yes, I can recall. Mr. Peterson spoke, Mr. Loeb spoke, Mr. Wexler——

Q. Who is Mr. Wexler? A. Mr. Wexler is the National Recovery Administration representative on the Industrial Advisory Board. He is Professor of Law at Columbia University. There were two gentlemen from Washington who spoke, I don't recall the name of one of the gentlemen, but the other was Mr. Termohlen, and I believe there was a Mr. Slocum, if my
2016 memory is accurate, but I am not sure.

Q. Do you know whether printed copies of the Live Poultry Code were brought to the meeting? A. I brought them there myself.

Q. What was done with them? A. They were placed up—well, the room there is a court room, I think, the room they use for the naturalization of citizens, and there is a bench, and a large place in front——

Mr. Heller: May I know what purpose this is all for?

The Court: I do not know what it has to do.

2017

Mr. Rice: If your Honor please, your Honor will recall that when Mr. Peterson was on the stand I asked him about this meeting for the purpose of showing notice to the Schechters. At that time we had not demonstrated that the Schechters were present at that meeting, but the last witness, Mr. Forsmith, has stated that he saw Alex, Martin and Aaron Schechter present at that meeting. Now, we propose to show that the essential provisions of the Code were explained to that meeting.

2018

Mr. Heller: What purpose is that for? The Code has been enacted; it is law, and that is all. That settles this question.

The Court: Ignorance would not be any excuse.

Mr. Rice: No, but I believe your Honor has ruled on the assumption previously that notice to these particular defendants——

The Court: Yes, you had one who was secretary of some meeting.

2019

Mr. Heller: Yes, that was an organization meeting.

Mr. Rice: Yes. Now we propose to show that at this meeting the Government officials and the Code Authority officials explained the straight killing provision.

The Court: All right, but show some of them were there first. If they were, I will let you show that.

Mr. Rice: We have just shown that through the testimony of Benjamin Forsmith, who testified that he talked with Aaron Schechter at that meeting, and that he saw Alex and Martin Schechter at that meeting.

2020

Mr. Heller: I will let him do it. It does not make any difference.

The Court: He did not see Joseph.

Mr. Heller: No, he did not.

The Court: That is what he says.

Mr. Rice: That is right.

Q. Did you hear the addresses? A. Yes.

Q. Given by the various speakers? A. Yes, I did.

Q. What were the subjects discussed by these
2021 speakers? A. The provision—the more important provisions of the Code were explained in some detail. The straight killing provision was emphasized, the inspection provision, the prohibition against the sale of culls. Professor Wexler explained the labor provisions, the hours of work and the rate of pay that was required. Mr. Loeb spoke, and in the course of his speech he pointed out that the Code was law and that the sanction behind it was both criminal and civil. The meeting lasted for quite a while, and the main tenor of the talks was an explanation of
2022 the meaning of the various provisions of the Code.

Q. Was the straight killing provision thoroughly discussed? A. Yes.

Q. At the meeting? A. Yes, it was.

Q. Was the Code provision explained to the meeting? A. Yes.

Q. How about the provision prohibiting the sale of uninspected poultry? A. That was very clearly explained to the persons present.

Q. And the provision prohibiting the sale of poultry unfit for human consumption? A. That was explained; in fact, the inspection and the culls provisions were the ones that were most heavily stressed.

2023

Q. You said that Mr. Wexler discussed the labor provisions? A. Yes, he did.

Q. What did he say with respect to the labor provision? A. He pointed out the difference in hours of work between those imposed by the commission men and those of the slaughter houses. The slaughter houses are allowed to have their employees work eight hours more per week than commission men. He also pointed out the minimum rates of pay, and at that time made a suggestion that if there was any conflict between the union contract and the Code provisions, that it might be a good idea for the members of the industry to start considering some solution of such a conflict.

2024

Q. After that meeting of May 15th, what did you do as associate counsel of the Allied Poultry Code Authority?

Mr. Heller: That is objected to. No relevancy.

Mr. Rice: I merely want to know his functions.

The Court: He wants to tell what his functions are, but what he did, we are not concerned with, except as it relates to these defendants.

2025

Q. What were your functions? A. I assisted Mr. Loeb in all matters there, but I was directly in charge of all investigations, supervised them personally.

Q. You supervised all of the investigations? A. Yes, sir.

Q. Did you supervise the investigation against the Schechter brothers? A. Yes.

Q. Did you attend a conference at Leroy Peterson's office on June 18, 1934? A. I did.

Q. Who was present at the conference? A. Mr. Heller, Mr. Joseph Schechter, Mr. Alex Schechter, Mr. Peterson, Mr. Loeb, Professor Wexler, Mr. Forsmith and myself.

Q. How long did the conference last? A. I believe it started about quarter to four or four o'clock and lasted to about 5:30 or quarter to six.

Q. Were you present there at all times? A. I was there during the entire conference. Professor Wexler and Mr. Forsmith and Mr. Peterson
2027 left about twenty minutes or half an hour before it was over, but we continued talking.

Q. Did you prepare a memorandum of this conference? A. Immediately after it was over I called a stenographer and dictated a memorandum.

Q. What was said by Joseph Schechter at this conference? A. Well, it is a little bit difficult to pick out what was said by each one because they both did quite a good deal of talking.

Q. Both who? A. Both Joseph Schechter and Alex Schechter. Mr. Heller was rather quiet at the beginning, he didn't start talking until rather
2028 later.

I believe the first thing that was discussed was the question of whether Joseph Schechter had a New York City permit to operate his slaughter house. He stated at that time that the permit was in the name of his brother, Sam Schechter, Sam Schecter had gone out of business, turned it over to him entirely about the middle of May, or I think it was just shortly about a week before Decoration Day in May, and since that time he had been sole proprietor, operator and owner of that slaughter house, but he had never bothered having the permit changed.

2029

The next thing that was discussed, I may be a little wrong in the order of things, but I believe the next thing that was discussed——

Q. Just a moment, before we pass that. Did Joseph Schechter say whether or not he or the Schechter Live Poultry Market, Inc. had a permit to operate a slaughter house at 991 Rockaway Avenue? A. He did, he said they had not——

Mr. Heller: I must object to the form of the question, he knows what took place, he made a memorandum right there, let him testify from his own memory as to just what happened.

2030

Q. What else did Joseph Schechter say on this first topic as to a Board of Health permit? A. Joseph Schechter said that he did not have a permit nor the corporation, I believe it was the Schechter Live Poultry Market, Inc., but that the permit had been in the name of Sam Schechter, and was still in that name. Sam Schechter was his brother, and he stated that Sam Schechter had left that place and taken over a retail butcher or poultry store in Coney Island, I think on Brighton Beach Avenue.

2031

Q. What was the next topic that was discussed? A. I believe then Mr. Peterson asked Joseph Schechter whether he had not stated in the telephone conversation within two or three weeks before that that he had been violating the Code every minute and intended to continue to do so, and Joseph Schechter said he had made such a remark, but that he made it because he was losing money. There was some slight conversation about that, but if I remember rightly that was all that was said about that fact.

2032 Q. Was anything said about the relation between Joseph Schechter on the one hand and Alex, Martin and Aaron Schechter on the other hand?

Mr. Heller: May I ask your Honor to direct counsel not to lead the witness?

Mr. Rice: I submit that that is not essentially leading.

The Court: I know, but this man should be able to testify to all the conversation.

2033 A witness who is called upon to testify should tell the conversation. If he fails to state it all, then his attention may be directed to specific things.

Mr. Rice: Very well, your Honor.

The Court: Tell the whole conversation; he should not be led.

Q. State any other part of the conversation in which Joseph Schechter participated. A. I believe it was Mr. Loeb who asked Joseph Schechter whether he had any connection in the slaughter house at 858 East 52nd Street, Brooklyn, and Joseph Schechter at that time stated 2034 he guaranteed the accounts for that slaughter house, because they had no credit standing, and apparently he had a credit standing. During the entire conversation whenever questions about 858 East 52nd Street, were asked, or about the operations of that place were asked, Joseph Schechter answered, and he seemed to be the dominating force in that family at that place——

Mr. Heller: I object to what he seemed to be.

The Court: Strike out what he seemed to be.

2035

A. (Continuing.) —there was some conversation, if I remember correctly, about straight killing. Mr. Loeb asked, I think it was Alex Schechter, whether he was complying with the straight killing provision, and I believe that Joseph and Alex stated that they had been straight killing for several days after the Code went into effect, but that they had stopped doing it and that they were not killing straight at that particular time. There was also Mr. Loeb asked Alex Schechter whether they made it a practice at 858 East 52nd Street to dispose of their culls and Alex 2036
Schechter stated that they did not destroy the culls because they did not see why the loss should fall on them, that they had bought the culls from a commission merchant and he should take the loss, and he said that the culls, that is the unfit poultry accumulated there during the week and on Friday they sold to the colored trade at a very cheap price—I don't recall what price he said he sold them to the colored trade at.

I believe that it was along about this time that either Joseph Schechter or Alex Schechter suggested that if they filed their reports and paid 2037
their assessments would that cure whatever had happened before then. Just before this time, Mr. Peterson, Mr. Forsmith and Professor Wexler left, and there remained Mr. Heller, the two Schechters, Mr. Loeb and myself, and Mr. Loeb at that time informed Mr. Heller that he could not say anything as to any violations that had occurred in the past because the matter was out of his hands; that is, as to these, he had already communicated with Washington and informed the Department of Agriculture and the Department of Justice of what had happened.

Mr. Heller then said—let me see if I can get this straight now—oh, yes, I then pointed out to Mr. Heller that there had been too much stress already laid in their conversation about their assessments and reports and that in so far as we are concerned that was the smallest and the least violation that we had information about. Then Mr. Heller said in view of the fact that information had been forwarded to Washington he was worried whether, as a legal matter, his clients,
2039 paying the assessments and filing the reports, whether that might not be deemed to their having consented to the Code and therefore would they waive any objection to it if they had. Mr. Loeb told him, that as a matter of law he did not believe that that fear was well founded and that he would not give any advice on that subject.

Mr. Loeb then suggested that he would consider it overnight, advising Mr. Peterson to receive reports and assessments from the Schechters without prejudice. Mr. Heller said that he did not think that that would be enough to
2040 satisfy him and Mr. Loeb said that he did not feel that Mr. Heller's fears were well founded and he did not want to commit himself that he either would make the suggestion to Mr. Peterson but that he, Heller, was to think it overnight and let him know the next day. That is my memory of that conversation.

Q. Now do you recall any other topics that were discussed? A. That's all I can recall without refreshing my recollection.

Q. And would your recollection be refreshed by looking at the memorandum that you prepared immediately after the conference? A. Yes.

2041

Q. Will you look through the memorandum and see whether there were any other topics discussed at this time? A. Yes, I see here that at the very opening of the conference, Joseph Schechter stated that he had been out of the poultry business for a considerable length of time and he had apparently had an accident in which he had broken his leg, and he stated that about the time the Code went into effect he went back into the poultry business because he believed that with the Code he would be able to make some money out of it.

2042

Q. Now have you covered all of the topics? A. Just let me look this over. Oh, yes, another thing that was discussed was the ways in which the various members of the Schechter family participated in the poultry business. I believe Joseph Schechter stated that at the A. L. A. Schechter Live Poultry Corporation at 858 East 52nd Street, Alex Schechter, Martin Schechter and Aaron Schechter directly participated and controlled, and that he owned and operated the place at 991 Rockaway Avenue and that the father, David Schechter, operated the slaughter

2043

house at 589 Snediker Avenue, Brooklyn, and that several of the other brothers were interested in the retail poultry businesses and butcher stores in Brighton Beach, I think two stores on Brighton Beach Avenue. And here is another thing that I forgot to mention; at the very beginning of the conversation, both Joseph and Alex Schechter stated that they had not known they were bound by the Code, or that they were covered by the Code until about two weeks before this conference at which time they had discussed the matter with Mr. Heller, their attorney, and he had told them that he believed they were bound by the Code.

2044 Q. You mean they said they had discussed this matter with Mr. Heller two weeks before June 18th? A. Yes.

Q. And then Mr. Heller said what? A. This time he told them that they were bound by the Code and were required to live up to its provisions.

Q. Anything else? A. Yes, they stated prior to that time that they did not know that. Mr. Loeb questioned them a little bit about that and then they stated they had known about the Code
2045 from the very beginning. Joseph Schechter stated that it was the fact that the Code was going into operation that brought him back into the poultry business. Another thing that Alex Schechter stated was that they had complied with the Code the first few days, or the first week after May 16th, but that had resulted in a sharp falling off of business. He stated that their business had dropped down to twenty-eight or twenty-nine thousand pounds a week, that is, at the time of the conference, but that the first week the Code was in effect it had taken a much
2046 sharper drop than that. I don't recall what figure he gave, and I did not include it in my memorandum, so I would not want to say what he did say about that.

Mr. Joseph Schechter asked Mr. Peterson whether it would be proper for a group of slaughter houses in Brownsville, that is, in the Brownsville section of Brooklyn, to form an association for the purpose of fixing prices, and Mr. Peterson told him that was a matter they had better consult their own counsel about, he would not want to give them any advice on such a subject. I believe that is about all.

Mr. Rice: That is all.

2047

Cross examination by Mr. Heller:

Q. Mr. Dale, did I understand you to say that you were, on June 18th, co-counsel with Mr. Loeb for Mr. Peterson? A. Well, not co-counsel. I worked for Mr. Loeb and I would have the title of associate counsel. I spent my full time there with Mr. Loeb.

Q. At the premises at Washington Street? A. Yes.

Q. The Federal Building? A. In fact, we were right in Mr. Peterson's office.

2048

Q. And you say you are no longer with the Code Authority? A. No.

Q. You and Mr. Loeb resigned? A. That is correct, about two weeks ago.

Q. And isn't it a fact that Mr. Loeb asked for $800 to prosecute this——

Mr. Rice: Oh!

Mr. Heller: Just a minute, please.

Q. Isn't it a fact that you and Mr. Loeb asked $800 to prosecute the case from the commission merchants?

2049

Mr. Rice: Oh!

The Court: Oh, no, that goes to his credibility.

A. No.

Q. Are you sure about that? A. Positive.

Q. Did Mr. Loeb do it without your knowledge? A. No, because there was some conversations about our assisting Mr. Rice, and I handled most of those conversations myself. Mr. Loeb was out of town for a few days and was busy in the office the rest of the time.

Q. You are sure the sum of $800 was not mentioned? A. Quite sure.

Q. No part of $900 was mentioned? A. No.

Q. No sum or figure? A. A higher figure was mentioned.

Q. I beg your pardon? A. A higher figure was mentioned.

Q. What was the figure that was mentioned? A. $900, but not from the commission men.

Q. From whom were you to get that money? A. We asked Mr. Mr. Peterson asked us how much we would charge to assist Mr. Rice in the course of his prosecution of this case. We asked
2051 him after some conversations a final fee of about $900 was agreed upon, which we were to be paid for assisting Mr. Rice in the conse of his prosecution.

Q. And Mr. Peterson asked you that? A. What?

Q. Mr. Peterson asked you that? A. No; I had my conversation with Mr. McFall, Mr. Peterson's present counsel.

Q. Was Mr. Peterson present at that time, all the time? A. I do not know; all the conversations were on the telephone.

2052 Q. Didn't I understand you to say Mr. Peterson wanted to know what you would charge? A. That was a mistake; no, it was Mr. McFall.

Q. He is the present counsel for Mr. Peterson? A. That is right.

Q. He superseded you? A. Yes, he took my place.

Q. Now, Mr. Dale, you said you were in charge of all the investigations with reference to the Schechter case while you were there, is that right? A. That is right.

Q. I understand that prior to June 18th the matter had been referred to Washington by you? A. Yes.

2053

Q. Can you tell us when? A. I couldn't fix the exact date, Mr. Heller; it was several weeks before that. Mr. Loeb and I both took a trip to Washington at which we discussed this matter.

Q. Would you fix that about June 1st, as the day? A. No, I do not think it was as early as that.

Q. About two weeks before the 18th? A. About a week or two before the 18th; I am not sure of the date. If I could look up my office memorandum I might fix it more accurately.

2054

Q. At that time the Code was in operation for about a period of two weeks from May 16th? A. That is right.

Q. You had already gone to Washington on the Schechter case? A. That and other matters had taken us down to Washington.

Q. And you had placed the matter in the hands of the Washington office, is that correct? A. Well, I do not quite know what you mean by placing it in their hands.

Q. You had filed certain papers and had conversations with them about the Schechter matter? A. That is right; had conversations and discussions about it.

2055

Q. Mr. Dale, do you know, do you remember the purpose of my coming to see you, Mr. Loeb and Mr. Peterson? A. You mean on June 18th, or that prior conference?

Q. June 18th; was that prearranged by me? A. Yes, you arranged that conference.

Q. I was there to see you a few days before June 18th? A. Yes.

Q. I came up to see you about adjusting the entire situation? A. You came up to see us about speaking to Schechters, and we said at that time

2056 that we would be very happy to speak to you about that at any time.

Q. On June 18th, I discussed with you the law questions involved? A. Yes, the legal phase of it.

Q. With Mr. McDonald, Mr. Loeb and Mr. Peterson? A. Yes, Mr. Peterson sat there for a while.

Q. Then I arranged for an additional conference for June 18th? A. No, you arranged the original conference several days before that, and

2057 on account of an appointment of yours it was cancelled.

Q. That is right, but I finally came up on June 18th with the Schechters? A. That is right.

Q. You knew that my purpose was to discuss the entire situation? A. That is what you said.

Q. I didn't bring them up to testify against themselves, did I? A. I do not think you did.

Q. I didn't tell you that they were going to testify against themselves, did I? A. No; you did not; that is right.

2058 Q. You didn't tell me that you were going to question them about the operations of their market, did you?

Mr. Rice: I do not see how that is material.

A. No, there was no discussion about questioning them. You said you wanted the Schechters to come up and discuss the situation, and we said we would be very happy to talk it over with them.

Q. You didn't tell me that you were going to make any memoranda of what transpired after I left, did you? A. No, I did not.

2059

Q. You gave me no inkling about that? A. No, I assumed that as a careful lawyer you would know that I was going to do that.

Q. I would know that? A. I mean just as a matter of being careful.

Q. You mean that I should have been fearful as to what they said when they came up there, that that would be your position? A. The word "fearful" does not describe it; if you have an important conference at your office you make a memorandum of it, that is what I mean.

2060

Q. You mean I should have been guarded before I came in there? A. Oh, no, not at all.

Q. Lest you have a trap for me? A. No.

Q. It wasn't a trap for me? A. No.

Q. You didn't let me know that you were going to make a memorandum of what Mr. Schechter said, did you? A. We did not have to do that.

Q. But you did make a memorandum after we left? A. Certainly.

Q. You didn't say you were going to make it, did you, you didn't tell me about that? A. There was no obligation upon me to tell you that. We had a conference, and I sat down after the conference was over and dictated a memorandum as to what happened.

2061

Q. You are a member of the Bar, aren't you? A. Certainly.

Q. Did you show any courtesy to me, professional courtesy? A. Of course I did.

Q. Did you extend it to me by telling me that you would make a memorandum? A. I extended every professional courtesy that one lawyer extends to another.

Q. You mean you gave me a seat, is that what you mean? A. That is not what I mean, no. I

told you that we were going to discuss the matter, and it was at your suggestion that we discussed the matter, and I told you that it had been referred to Washington.

Q. You mean you didn't throw me out, is that the professional courtesy that you extended? A. That is not it at all; you do not word it accurately. I did not tell you that we had made a memorandum. First of all, I could not, because you left when I started to make the memorandum.

2063 Q. You say you make memorandums of every conference that you have? A. Every conference had on any important subject, every conference that we have about a code violation you will find a memorandum of it in the files of our offices. That practice has existed right along.

Q. So that if Mr. Peterson said that he merely talks to a person without a stenographer being present, or a memorandum being taken with regard to the violations, he did not state the facts accurately? A. No, there is no stenographer present. Very often the memorandum

2064 is nothing more than the statement that Mr. So-and-So was in today to discuss straight killing and it was explained to him, and put in the file.

Q. Now, you gave a copy of your memorandum to Mr. Peterson? A. I showed it to him, I think, but I am not sure.

Q. Do you know whether he has an exact copy of your memorandum? A. I made several copies —you mean whether he has it personally?—I know it is in the files in the office.

Q. Did you send one to Washington? A. Yes.

Q. The same day? A. No.

Q. What time did the conference break up? A. About 5:30 o'clock to 6 o'clock.

2065

Q. And then you dictated your memorandum? A. That is right.

Q. And when did you finish? A. The next morning; I did not want to keep the girl there that night.

Q. And how long did you keep her in there? A. Just five or ten minutes.

Q. And do you know what the office hours are under the N. R. A.? A. Yes.

Q. 9 to 5? A. No, not necessarily; 10 to 6 is just as good.

2066

Q. And your girls come in at ten o'clock? A. This particular girl, I don't know. But I know that she had not done her eight hours that day because we try not to keep them longer than that.

Q. You do keep them there? A. I don't know, Mr. Heller, I do not keep watch on their hours.

Mr. Rice: Now, if your Honor pleases, it seems to me utterly useless to try and find out here what the hours of the stenographers are in the office of the N. R. A. Code Authority.

2067

The Court: I presume that he is proving that the memorandum was not made until the next day.

Q. You sat around when you dictated the memorandum? A. No, I did not. Mr. Loeb came in a few minutes later and I had the girl read it to him and I asked him whether it was accurate and he suggested a few changes where I had simply inaptly expressed myself.

Q. Well, now, immediately after the conference you dictated the memorandum and you made some mistakes about what transpired? A.

2068 Not mistakes as to what transpired, just inartistic in English.

Q. You mean your language? A. That is all. It was just a rough memorandum of what had happened.

Q. And did it require accurate language? A. I read it to Mr. Loeb for the purpose of having him check on the accurateness of my memorandum.

Q. And he found you had made some few immaterial errors? A. In English.

2069 Q. Right after the conference? A. Yes, but my memory was accurate, though.

Q. Now you are sure that Mr. Peterson asked Mr. Schechter whether or not he had made a statement over the telephone on June 1st to the effect that he was violating the N. R. A. Code, and he said yes? A. Yes.

Q. And do you remember him asking that question? A. I do. I would not want to say that those were the exact words that he used, but he asked that question.

2070 Q. Did Mr. Peterson report to you on June 1st that he had such a conversation with him? A. Yes.

Q. And did you tell him to ask that question on the day that I was there? A. I don't know whether I told him or not, but I know that he asked it.

Q. Did you tell him it was necessary—you or Mr. Loeb—to make definite, to make sure that he was the person who said that on June 1st? A. He did not have to make it necessary, it was true, because Mr. Zasloff came into the office and gave me an affidavit that he had heard that conversation on the other end.

2071

Q. Despite the fact Schechter was asked that question on June 18th in my presence? A. Yes; Mr. Peterson asked him.

Q. Are you sure about that? A. Positive.

Q. Do your know what date the investigation started on this particular matter, have you any record? A. I have my memorandum, but I think my memory would be accurate on that. It was about the 28th of May or perhaps the 29th that I received information that the Schechters were bringing in poultry without having it inspected.

2072

Q. May 29th? A. The 28th or the 29th—no, it was Saturday, it was May 26th that somebody called up on the telephone and told us that the Schechters were running in a load of poultry from Philadelphia without having it inspected.

Q. Do you know where that telephone conversation came from? A. I would have to refresh my recollection on that.

Q. You took the man's name? A. If he gave me his name I took it and it is on the memorandum.

Q. And his address? A. Yes.

2073

Q. And you spoke to him personally? A. Yes.

Q. You took the message? A. Yes.

Q. Are you sure about that? A. Yes.

Q. And you made a memorandum of it? A. Yes, sir.

Q. Now, from that time on you sent investigators out on this case? A. On that complaint.

Q. How many investigators did you place at your disposal? A. Just one.

Q. From that time on—— A. At that particular time I put one man on to investigate whether the Schechters had brought in poultry without

2074 having it inspected, and he came in with a report to show that their violations were so much more widespread than that, that I put other investigators on it.

Q. Was that Mr. Forsmith who went out on the original complaint? A. Yes.

Q. And he told you that there were other violations? A. He told me that there were no inspection labels on the coops, and in addition, that they were not killing straight.

2075 Q. That was May 29th? A. May 28th or 29th, perhaps the day after Decoration Day; it was just that week-end.

Q. And then you continued sending out investigators? A. Yes, then I had two men kept almost continuously full time on this investigation.

Q. Did you write a letter to Mr. Schechter and ask him to come in? A. Mr. Peterson called him on the telephone, if I remember rightly.

Q. Was that the June 1st telephone conversation that you referred to? A. No, it was earlier than that. He tried to get him to come to the

2076 office, but he might have written him a letter, but I have no knowledge of it.

Q. If Mr. Peterson said it was June 1st when he had the first telephone conversation, would you disagree with him? A. If Mr. Peterson said that, he knows it better than I do.

Q. If Mr. Peterson said he wrote no letters? A. He would know better than I would.

Q. Did you dictate any letters? A. No.

Q. You did not call him in for a conference to explain? A. No.

Q. The complaint made against him? A. No, I did not. I did not. I discussed it with Mr. Peterson shortly after June 1st and he told me

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that in the light of what Joe Schechter had told him on the telephone June 1st he did not see any sense in calling him in and I agreed with him.

Q. You both made up your minds on June 1st because of the telephone conversation that he was beyond redemption? A. No; but when a man says he intends to do something and intends to continue doing it, and says it flatly, there is no use talking to him.

Q. There is no use seeing him face to face? A. For what purpose?

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Q. There is no use seeing him face to face? A. (No answer.)

Q. You are a lawyer? A. Yes.

Q. Do you know the position Mr. Peterson holds? A. Yes, I do.

Q. It is somewhat judicial in nature? A. Well——

Q. In a sense? A. I suppose in a sense. In a sense he has to use judgment.

Q. Yes, and it requires deliberation, does it not, the position? A. Yes.

Q. It requires the ability to talk to people? A. Yes.

2079

Q. Make them do things, does it not? A. Well, to try to make them do things.

Q. Does not require hasty action, does it? A. No.

Q. That should not be characteristic of any kind of man? A. No.

Q. And you say from a mere telephone conversation he was justified in doing what he did? A. In that case I think so.

Q. As a lawyer you say that? A. As a lawyer I said that to him and as a lawyer I say it now.

Q. And you would want your client to be judged by that conclusion? A. If my client

picked up the telephone and said he was violating the law and intended to continue to do so, I would expect the man at the other end of the line to figure he was dealing with a law-breaker, under those circumstances, and there is no sense calling him in to speak with him.

Q. And if he was your client you would come to the conclusion that he had no rights in the matter, he was concluded by what he said? A. Of course he would have rights.

2081 Q. You would want to talk to him, wouldn't you? A. No, there is no sense of talking to him, even if he has rights.

Q. You would not want to see him? A. There would be no purpose in seeing him. If he asked for a conference, we would have been happy to give it to him, and that is what happened.

Q. The purpose of the conference would be against him? A. No.

Q. You wouldn't do that to your client? A. No.

Q. You would want to have that done to your

2082 client; you would think it was a pretty nasty trick? A. Oh, no, it would not be a nasty trick.

Q. You would not think so? A. If my client came to a conference, and I acted as his lawyer, and he answered questions, there is nothing done——

Q. And you would tell him to shut up if he were asked questions? A. If I thought it were to the best interests of my client, I would tell him to keep quiet.

Q. You would call a conference and after calling the conference you would tell him to keep quiet? A. It would depend on what was asked and what came up.

2083

Redirect examination by Mr. Rice:

Q. Mr. Dale, you say the Live Poultry Code Authority offered to retain you to help me in presenting this case. A. Not in presenting it; to assist you in the case.

Q. Yes. A. Yes.

Q. They offered you $900 to assist me in this matter? A. Yes.

Q. You are not getting paid anything, are you? A. What do you say?

Q. For your testimony. A. Oh, no, of course not.

2084

Q. Aside from possibly a dollar and a half as a witness? A. I have forgotten about that.

Q. You were not retained, were you? A. No.

Q. Those negotiations did not go through? A. No.

Q. And I myself urged you to take the position, did I not? A. Yes, you did.

Mr. Rice: That is all.

Mr. Heller: That is all.

(Witness excused.)

2085

The Foreman of the Jury: Your Honor, may we have a five-minute recess?

The Court: Yes, surely. Do not let anybody talk to you about the case.

(Short recess.)

Mr. Rice: If your Honor please, I desire to call Mr. Forsmith for just one question on a matter that came up during his cross examination.

The Court: Very well.

2086 BENJAMIN FORSMITH, recalled, testified further as follows:

By Mr. Rice:

Q. Mr. Forsmith, on cross examination you were asked by Mr. Heller about a meeting at which you were supposed to have said that the Code was only for the benefit of you and Mr. Peterson. A. Yes.

Q. Will you tell us just what you did say
2087 at that meeting?

Mr. Heller: I object to that on the ground that he has already said he does not remember he said "I would not say or I would not say no."

Q. Do you remember what you said? A. I do.

Q. What did you say? A. I said that so far as Peterson and myself is concerned we were there to do benefit to the industry and if we could not do anything for the industry we would
2088 not stay there, we would quit, that the only purpose of this Code was to help the industry and do some good.

Q. Did you say that the Code benefited only you and Mr. Peterson? A. No, I said that the Code is supposed to benefit the industry and that was the intention of the Code.

Q. Now what was the purpose of the meeting? A. We were forming new provisions as amendment to the Code.

Q. New provisions that the industry wanted or some members of the industry wanted? A. Provisions which had been called for and there had been a hearing, a meeting had been held,

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and the provisions had been approved by the Secretary of Agriculture. The purpose in calling this was to get the people together, in furtherance of these provisions to provide some form in which the provisions could be carried out, and I called the people——

Mr. Heller: Now I object to his going into this kind of testimony.

The Court: Yes.

Q. How did you happen to make this statement? 2090

Mr. Heller: I object to that, he made it and he has stated what it was.

Mr. Rice: Very well. I withdraw the question. That's all.

Mr. Heller: Just one question.

By Mr. Heller:

Q. Who refreshed your recollection as to what was said? A. Nobody.

Q. You walked out into the hallway during recess? A. I was sitting in the courtroom all the 2091
time.

Q. And you were thinking to yourself of what had happened at that meeting? A. Yes, and at recess I went over to Mr. Rice and I told him what had transpired at this conference.

Q. And you are certain that you did not make a statement to the effect that the Code really benefited you and Mr. Peterson? A. That's right.

Q. You are positive about that? A. Positive.

Q. And do you know who was there at the meeting? A. Yes, offhand I do.

2092 *Benjamin Forsmith—By Govt.—Redirect*

Q. Well, give me some names. A. Well, there was Louis Spatz; Morris Brown and Al Winkle; K. Gross; I. Kaplan; Morris Sorgun oh, about 18 people. In fact I have a memorandum drawn in the office as to who was there and what happened at the conference.

Q. Are you sure now that that statement was not made? A. The statement you asked me?

Q. Yes. A. Yes.

Q. Are you willing to be judged by your memory of what transpired at that meeting as you have now stated it? A. Yes.

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Q. As to whether or not you are telling the truth? A. That's right.

By Mr. Rice:

Q. You came up to me during recess a few minutes ago and you told me that you now recall——

The Court: He just said that he did.

Q. I did not approach you on the subject? A. No, sir.

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(Witness excused.)

Mr. Rice: If your Honor please, we have prepared a list of the market men and addresses——

The Court: Show it to Mr. Heller.

Mr. Rice: In the vicinity of A. L. A. Schechter Poultry Corporation.

Mr. Heller: Very well, I consent to it being offered in evidence.

The Court: All right.

Mr. Rice: Is this being offered as a defendants' exhibit?

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Mr. Hellet: I will take it as mine, if you so desire.

(Marked Defendants' Exhibit E in evidence.)

PHILIP ALAMPI, called as a witness on behalf of the Government, having been duly sworn, testified as follows:

Direct examination by Mr. Rice:

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Q. What is your occupation, Mr. Alampi? A. Investigator for the Live Poultry Code.

Q. What has been your training? A. I have had four years of vocational agriculture in an approved New Jersey high school, and four years in agricultural work at Rutgers, New Jersey, majoring in poultry husbandry.

Q. Will you kindly speak a little louder? A. Graduating with a B. S. degree.

Q. You graduated from Rutgers University? A. Yes, with a B. S. degree.

Q. Specializing in what line? A. Poultry husbandry.

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Q. What particular subjects did you take under that heading? A. Practically all of the fields that come under the head of poultry husbandry, such as poultry diseases, poultry feeding, poultry management, brooding, rearing, marketing, and all other related fields.

Q. Under what instructors or professors did you study those subjects? A. Under Professor, the head of the department is Professor Willard C. Thompson, internationally known poultry husbandryman, and Dr. Frederick Beaudette, the outstanding poultry pathologist in the world.

2098 Q. How long have you been in the employ of the Live Poultry Code Authority? A. Since June 18th.

Q. 1934? A. That is right.

Q. And what have been your functions as an investigator for the Code Authority? A. To investigate complaints in other matters for the Live Poultry Code industry.

Q. Have you ever visited either one of the Schechter markets? A. Yes, sir.

2099 Q. Which one did you visit first? A. The A. L. A. Schechter Live Poultry Corporation at 858 East 52nd Street.

Q. When did you visit that market? A. The first time June 21, 1934.

Q. What did you observe there? A. I first made myself acquainted with the men in the establishment.

Q. Was that June 24th or June 21st? A. June 21st, my first visit.

Q. What did you observe there? A. Primarily the method of doing business, until the members of the slaughter house.

2100 Q. Anything else? A. Not that I recall at the moment.

Q. When was the next time that you visited either one of the Schechter markets? A. I visited the same mentioned market on June 22nd.

Q. Who did you see on that occasion? A. At that time both Abe Schechter and Meyer Schechter were present.

Q. By Abe Schechter, do you know Abe Schechter by any other name? A. Aaron.

Q. How do you know that he is called Abe Schechter? A. By the customers calling him Abe, and his self-admittance.

Q. His what? A. Self-admittance.

2101

Q. He told you that he was called Abe Schechter? A. That is right.

Q. As well as Aaron Schechter? A. That is right.

Q. Who was there besides Aaron Schechter? A. Meyer Schechter.

Q. That is the man also known as Martin Schechter? A. Martin Schechter, that is right.

Q. Did you have any conversation with them? A. I did.

Q. What was the conversation? A. Just a minute, which one is that, is that the 22nd? 2102

Q. Yes, I think you said June 22nd. A. That is right.

Q. What day of the week is that? A. June 22nd is on a Friday.

Mr. Rice: Does anybody have a calendar?

Mr. Heller: That is right.

Q. That is a Friday? A. That is right.

Q. What was the conversation? A. I do not recall that.

Q. You do not recall any conversation now? 2103
A. There may have been one but I do not recall it immediately.

Q. What did you do then, what did you see? A. Primarily I found out who the officers were in the corporation, who the workmen were, their names and particularly what their functions were.

Q. This was on June 22nd? A. That is right.

Q. Did you see anything else? A. I observed the killing of poultry, and finding violations of the straight killing law.

Mr. Heller: I object to that and move to strike it out.

2104

The Court: Yes, I will strike that out.

Q. You were investigating violations of the straight killing provision of the Code? A. Yes, sir.

Q. And what did you do at the Schechter Market on that occasion? A. I watched a particular sale.

Q. Tell us about it. A. Buyer 961 Blake Avenue——

Q. Why do you call him 961 Blake Avenue?

2105 A. That is his address, and he is known as such on the card books.

The Court: What?

The Witness: That is his address and he is known as such on the card books.

Q. Do you know whether it is the custom in the poultry trade sometimes to call a customer by his address instead of by his name? A. Yes, very frequently.

Q. And to a certain extent you have adopted that custom? A. Yes, sir.

2106 Q. And so you call this customer 961 Blake Avenue? A. Yes, sir.

Q. Do you know what his name is? A. I do not, sir.

Q. What happened? A. 961 Blake Avenue wanted some poultry, so Meyer Schechter ordered a kill for him——

Q. Who? A. Meyer Schechter.

Q. That is Martin Schechter? A. That is right. Sam Cohen, a workman, pulled the birds from the coop; 45 birds were handled and 6 were rejected by the buyer. The birds were slaughtered by Zukor Weiss.

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Q. How do you happen to remember these figures, Mr. Alampi? A. I made a notation of that immediately while the sale was going on, and then when I went to the office I dictated it to the girl and re-read my notes and compared them with the original notes.

Q. Have you recently reviewed your memoranda? A. Yes, sir.

Q. Is it your practice to make a memorandum as to all of your investigations at all of the markets? A. Yes, sir.

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Q. These are kept as part of the files of the Code Authority? A. Yes, sir.

Q. You say that this customer, whose address is 961 Blake Avenue, handled 45 chickens and he rejected 6 chickens? A. Yes, sir.

Q. Did you observe the condition of those 6 rejected chickens. A. Four of those birds, in my estimation, were perfectly O.K., and two were culls.

Q. Were the four obviously fit for human consumption? A. They were, because I questioned both the buyer and the Schechters, and they admitted the O.K., but the buyer did not want them.

2109

Q. The buyer did not take them? A. No.

Q. What was done with them? A. They were put in a separate empty half coop.

Q. Who was present there at the time this happened? A. Meyer and Abe.

Q. When you say Abe you mean Aaron? A. That is right.

Q. They were present during all of this? A. Yes.

Q. When these six rejected chickens were put in a separate coop what happened to them after that, do you know? A. I watched them until my departure, which was 11:15, and they had not been sold at that time.

2110 Q. They had not been sold at that time? A. No.

Q. And you did not see what happened to them thereafter? A. No, sir. Of the six, two were specific culls.

Q. Did you have any further conversation with either one of the Schechters at that time? A. I don't recall.

Q. You say that you questioned each one? A. I questioned both the Schechter boys, Abe and Meyer.

2111 Q. What did they say? A. They said that the birds were fit for human consumption, but the buyer would not take them.

Q. Both of them said that? A. Yes, sir.

Q. Did you observe anything else on Friday, June 22nd? A. Not that I recall now.

Q. When was the next time you went to this market at 858 East 52nd Street? A. On Monday, June 25th.

Q. What is that? A. Monday, June 25th.

Q. On the following Monday? A. That is right.

2112 Q. Who was there? A. Meyer Schechter.

Q. Anybody else? A. I think Saul Schechter was there at the time.

Q. And Saul Schechter is not any of these defendants? A. I don't know.

Q. What did you observe on Monday, June 25th? A. Buyer No. 2267, as he was known.

Q. That is a customer whose address is what? A. He was known as 2267.

Q. 2267? A. That is right.

Q. You don't know his name? A. I don't know his name or his address. (Continuing previous answer.) Entered and wanted some poul-

try and Meyer ordered it killed for him. Four birds were rejected from his kill, and of these four two were specific culls. One was egg-bound and the other obviously the same. Later a buyer from 1753 Prospect Place——

Q. By the way, is an egg-bound chicken fit for human consumption? A. It is not, sir.

Q. Do you know that to be true? A. Yes, sir.

Q. From your experience as a poultry expert? A. Yes, sir.

Q. Is it obviously unfit for human consumption? A. Yes, sir. 2114

Q. Anyone in the poultry trade would recognize it as such. A. Yes, sir.

Q. All right. What happened? A. These birds were thrown into a special undesirable coop, as the Schechters call it.

Q. That is, four birds? A. That is right.

Q. Including two unfit birds and the healthy birds? A. That is right.

Q. Is that right? A. That is right.

Q. Did you say how many chickens this customer took away with him, how many he purchased? A. That is incorporated in my reports, 2115 and if I could see the same, I would refresh my memory.

Q. Yes. Would you look at your reports? I have the original here. Do you have copies? A. Yes, I have copies in the other room.

Q. You have copies? A. In the other room.

Q. You mean in the witness room? A. Yes. May I be permitted to get them?

Mr. Rice: Will you get them, Mr. McDonald?

Q. You have a great number of figures. A. That is right.

2116 *Philip Alampi—By Govt.—Direct*

Q. Which you are going to testify about? A. Yes, sir.

Q. And you have recently refreshed your memory as to those figures? A. Yes, but there is an enormous amount, and it is hard to remember all this.

Q. You are speaking of the occasion on May—on June 25th. A. June 25th.

Q. Monday, is that right? A. That is right.

Q. Can you tell us how many chickens were purchased by that particular customer? A. He
2117 handled 23 and rejected 4. 19 were killed.

Q. Did you have any conversation with Meyer Schechter about the quality of the chickens rejected? A. No, sir.

Q. Was anything said in your presence and in the presence of Meyer Schechter? A. No, sir.

The Court: What were the number of chickens on the 21st?

The Witness: The 21st?

The Court: Yes.

The Witness: There wasn't any; June 22nd was the first observation.

2118

The Court: Well, as to the 22nd how many?

The Witness: 39 killed and 6 rejected on the 22nd.

Q. Now, when the customer rejected these four chickens did Meyer Schechter do anything? A. No, except that the chickens were thrown in the coop and he let them go.

Q. He stood by there? A. Yes.

Q. And he did not protest? A. No.

Q. He didn't say anything? A. No.

Q. Now, did you observe what happened to the four rejected chickens? A. Yes.

2119

Q. What happened to them? A. Later in the morning a buyer from No. 1753 Prospect Place, Brooklyn, came in and he wanted some poultry, and the Schechters slaughtered some for him. Then this particular coop of undesirables was killed off for him, which included those particular birds that I mentioned before.

Q. Did you see the four chickens slaughtered for the customer at 1753 Prospect Place? A. Yes.

Q. What is the name of that customer? A. I don't know, but I think it is Harry Schreiber. 2120

Q. Tell us what you saw on that occasion. A. Then the four birds were slaughtered in addition to a paralyzed bird that had been laying on the floor all morning, which was also slaughtered and thrown in with the rest of the birds.

Q. And was that paralyzed bird unfit for human consumption? A. Yes.

Q. And was it readily recognizable as such? A. Yes.

Q. And was Meyer Schechter present at the time? A. Yes. 2121

Q. Was anybody else present? A. Abe Schechter.

Q. And was he present during that entire time? A. Yes.

Q. And was he present also when the four birds were rejected on Monday, June 25th? A. Yes.

Q. He was present at all times? A. Yes.

Q. Have you told us everything that happened when the customer from No. 1753 Prospect Place came in and purchased these chickens, including the three unfit chickens? A. Yes.

2122 Q. Have you told us everything? A. Yes. Then I called our office——

Mr. Heller: Did I understand you to say, Mr. Rice, the three unfit chickens at No. 1753 Prospect Place?

Mr. Rice: Yes.

Mr. Heller: Then I object to it, your Honor; the indictment says but one, page 21 of the indictment.

2123 Mr. Rice: Well, if we prove three and charge one, there is no objection to that, is there?

The Witness: What happened is that I called Mr. Dale from our office and he in turn got in touch with Mr. Seabrook of the Board of Health, and we made arrangements to meet——

Mr. Heller: I object to that.

Q. What did you do and what did you observe? A. I met Dr. Seabrook at No. 1759 Prospect Place.

2124 Q. And what did you do there? A. We entered 1753 Prospect Place premises and there we examined those birds that I had condemned as culls from visual observation.

Q. How did you know they were the same birds? A. I had toe-punched them.

Q. Will you explain that to the jury, the jury does not know what toe punching means? A. Well, in poultry terminology toe punching means cutting or punching the web of the foot, so that the bird is identifiable. It is done with a regular punch usually. It was impossible in this case, so I carried a razor blade with which I slit the web in the place where there are 32 possible marks of identification.

2125

Q. Will you explain that, please, so that we will understand what 32 possible marks are? A. Well, you may mark an outside right or an inside right, or you may mark an outside left or an inside left; and then you can have all combinations of those cut.

Q. And you put two marks on the web of the chicken's feet? A. I just slit the web.

Q. Does it hurt the chicken? A. No, sir; it is done on baby chicks; it is a common practice in the poultry business.

2126

Q. And how is the mark made? A. Well, it just cuts the web and the cut remains as the mark.

Q. And it never heals? A. It heals, the edges heal, but the cut never returns to its original form, solid form.

Q. You say that you recognized these three unfit chickens when you and Dr. Seabrook got over to 1753 Prospect Place? A. That is right.

Q. How did you mark them previous to that time, and when had you marked them? A. I had marked them while they were in the coop of chickens, while they were on the floor of the

2127

coop.

Q. Did the Schechters see you doing it? A. No, sir.

Q. You marked them when they weren't looking? A. That is right.

Q. Then when you got over to 1753 Prospect Place what happened? A. Dr. Seabrook found these birds——

Mr. Heller: I object to what happened at a different place not in the presence of the defendant.

The Court: He can tell what he observed, that is all.

2128 Mr. Rice: I simply want to trace these chickens to that particular place.

Mr. Heller: He said he found them there.

The Court: He went there and identified them by the cuts that he had made. He has already said that, I think; didn't you? Don't shake your head.

The Witness: Yes, sir.

2129 Q. What happened to those chickens? A. Dr. Seabrook ordered them to be cut up, and he condemned one as an egg-bound bird. The second bird he cut up and it was of questionable quality, and the other was very poor quality, but not condemnable.

Q. You saw all this yourself? A. Yes, sir.

Q. Did you observe anything else on June 25th at the poultry market at 858 East 52nd Street, Brooklyn? A. Not that I recall.

Q. When is the next time that you went—— A. Tuesday, June 26th.

Q. The following day? A. That is right.

2130 Q. You went to the same market? A. That is right.

Q. What did you observe at that time? A. Observed, I went through the same procedure as before, and observed straight killing and the sale of culls.

Q. Who was present? A. The three brothers, Alex, Abe and Meyer, as well as Sam Schechter and Levine of the Schechter & Levine firm.

Q. Tell us what you observed, Mr. Alampi, when the three Schechter brothers whom you have designated were present. A. Abe Schechter ordered a kill for the Schechter & Levine

firm, and Sam Cohen pulled the birds, and handed them to Levine for observation. 2131

Q. Levine was the customer? A. That is right.

Q. Sam Cohen is the working man? A. That is right.

Q. And Abe Schechter is the defendant Aaron Schechter? A. That is right.

Q. All right. Now, what customers bought? A. Levine & Schechter bought this kill. There were two coops killed, and from the first coop four birds were rejected. 2132

Q. What was the condition of the rejected birds? A. I couldn't ascertain at that time because things were happening so fast; I just had time to mark them without being seen, and not examine them closely.

Q. Were they unfit for human consumption? A. I later determined that they were.

Q. That they were unfit? A. That they were fit.

Q. They were fit for human consumption? A. That is right.

Q. You did determine that? A. I determined 2133
that upon close observation.

Q. What was the name of that customer? A. Levine handled the birds, of Levine & Schechter.

Q. Who operated at what address? A. I don't know.

Q. 257 Brighton Beach Avenue? A. (No answer.)

Mr. Rice: Is that right, Mr. Heller?

Mr. Heller: Yes, that is correct.

Q. What else did you observe on that day, Tuesday, June 26th? A. Later in the morning

a buyer from 5010 Church Avenue came in and ordered a kill and included in this kill were those four rejected birds that I had previously too punched.

Q. Which four rejected birds? A. They were rejected from the Levine & Schechter kill.

Q. Oh, which you determined were not unfit chickens? A. I later determined that by examination in the customer's store.

Q. Then all of these rejected birds were later sold? A. That is right.

2135 Q. To another customer? A. To 5010 Church Avenue.

Q. In your presence? A. That is right.

Q. Were all three of the Schechter Brothers present at that time? A. Yes, sir.

Q. Then what happened? A. I proceeded to the store at 5010 Church Avenue to make a close observation of the four rejected birds that were too punched.

Q. What else happened at the Schechter Market? A. I don't recall.

2136 Q. On that day; anything else? A. There was a lot of conversation directed to me by Abe Schechter.

Q. What did he say? A. Firstly, that I was the cause of his losing the customers because the customers were being afraid of being involved in a lawsuit; secondly, that I had no right being an investigator, not knowing anything about chickens.

Q. Did you tell him that you were a poultry expert? A. No, sir.

Q. You just kept quiet? A. That is right. Third, that I would not be allowed to enter the premises the following morning, Wednesday morning.

2137

Q. Who told you that? A. Abe.

Q. Tell us just what he said. Tell us just the way he said it. A. Well, he said. "You come here tomorrow morning, we won't let you in." "You try to get in, we'll put you out."

Q. Was there anybody—— A. Meyer was present.

Q. (Continuing) —with him? A. Meyer was present.

Q. Did he participate in the conversation? A. Meyer later said, that is, Abe and Meyer both admitted they did not kill straight and they were very emphatic about it.

2138

Q. That is, they both said it? A. That is right, very emphatically. They repeated it several times during the conversation.

Q. What else did they say to you about coming there next day? A. They threatened me with violence if I put my foot in the premises.

Q. What did they say, just approximately what did they say? A. Well, they accompanied all this with unprintable langunge.

Q. What do you mean by "unprintable langunge"? A. I think the word is self-explanatory.

2139

Q. Speak right up. Just tell us what was said. A. Well, they just cussed me up and down, that was all.

Q. They cursed you? A. Oh, yes.

Q. They used vile words? A. Yes.

Q. You do not want to repeat those words here in court? A. That is right.

Q. Anything else said about your coming there on the following day? A. No, sir.

Q. What was the next thing that happened? A. I returned to the office and I went there again the following morning.

2140 Q. That is, Wednesday, June 27th, is that right? A. That is right.

Q. Who did you find there on the following day? A. Both Abe and Meyer were present when I arrived. Later Alex came in.

Q. Did you have any conversation with Aaron and Martin Schechter? A. No, except the usual customary morning greetings, and I walked into the place.

Q. They let you into the place? A. Yes, sir.

2141 Q. Was there anything said about your staying out of the place? A. Not when I entered.

Q. Was anything said later? A. At the end of the day's work there was.

Q. Was there anything said by Alex Schechter? A. No, sir.

Q. What happened that day? A. A buyer, which represented, I think, the Schechters, Sam Schechter's place, came and ordered some birds, and he rejected——

Q. You mean Sam Schechter of Schechter & Levine or Levine & Schechter? A. That is right.

2142 Q. Yes. A. Ordered a kill and he rejected eight birds.

Q. How many? A. Eight.

Q. How many did he take? A. He took two and a half coops.

Q. And he rejected eight? A. That is right.

Q. What was the condition of the eight rejected birds? A. Six were O. K. in my mind, but two were culls.

Q. Were the two——

The Court: How many were there?

The Witness: Six were O. K. and two were culls.

Mr. Rice: Two and a half coops, your Honor.

2143

Q. What happened to the eight rejected birds? A. They were thrown into a special three-quarter coop of undesirables, as Schechters termed them.

Q. Who was present when all this took place? A. Abe and Meyer.

Q. Was Alex present then? A. He came by later, he was later there.

Q. During what part of the procedure was he present? A. When the birds were rejected.

Q. Was he present when the birds were rejected? A. Yes, sir.

2144

Q. Just tell us what happened. A. The birds were thrown in this special three-quarters coop, and later a fire from 1753 Prospect Place—wait a minute, I am getting ahead of my story. In the meantime about 8:35 both rabbis left, and Abe Danziger and Meyer Schechter were the only ones left in the establishment. At 9:28 I left to make a telephone call, and at that time the only poultry in the establishment was this three-quarters of a coop of undesirables. Meyer made a remark that there was no more chickens, you may as well go home, since both rabbis had left.

2145

Q. Who was present when Meyer Schechter said that you might as well go home? A. Abe Danziger.

Q. Nobody else? A. No. So I left the premises, went to a garage at the next corner and made a telephone call at 9:28. When I came back——

Q. You mean 9:28 in the evening? A. In the morning, a. m. I came back at 9:35, and there was Rabbi Wise with a shochet's knife, with blood on the knife and the three-quarter coop of poultry had been slaughtered.

Q. That is the three-quarters coop of so-called undesirable poultry? A. Had been slaughtered while I was gone in those few minutes.

2146

Q. How long were you gone? A. I was gone from 9:28 to 9:35.

Q. You went out of course when Meyer Schechter told you there was to be no more slaughtering? A. Yes.

Q. And you had better go out? A. That is right.

Q. And how long were you gone? A. From 9:28 to 9:35.

Q. That is seven minutes? A. Yes, sir.

2147

Q. When you got back seven minutes later what did you find? A. The entire three-quarters of a coop had been slaughtered and fresh blood was present everywhere, and everyone had a look of amazement on their faces.

Q. Who was there? A. Meyer Schechter, Abe Danziger and Shochet Wise.

Q. And was there any conversation after you got back? A. Except that I suspect a buyer was standing nearby, by the scales.

Mr. Heller: I object to what he suspected.

2148

The Court: Some man was standing there.

Q. Do you know what his name was? A. Morris Wagshaul.

Q. What is his address? A. Morris Wagshaul, this particular address was 127 Sutter.

Q. 127 Sutter Avenue? A. That is right.

Q. Morris Wagshaul of 127 Sutter Avenue was there when you got back? A. That is right. Meyer Schechter told Leo the bookkeeper——

Q. Who is Leo? A. The bookkeeper.

Q. What is his last name? A. I do not know.

Q. Leo Schimmel? A. I do not know.

Q. What did he tell him? A. Told him to place the stack of birds on Leo's fenders in the car, and told him to drive to Dumont and Brighton Beach. The buyer drove off in his own car. I took the license number of the man that I thought was the buyer, called the office, and got in touch with Mr. Dale, and he in turn informed me who the owner of the car was and his two business addresses, one of which was 127 Sutter. 2149

Q. You heard Meyer Schechter say to the bookkeeper to go to Dumont Avenue— A. To take them to Dumont Avenue and Brighton Beach. 2150

Q. Did he give any specific address? A. No.

Q. You never knew Dumont Avenue and Brighton Beach? A. No.

Q. Do you know whether there is such an address? A. No.

Q. Do you know that there was no such an address? A. That is right.

Q. How do you know that? A. Because I had never heard it used, and it didn't seem to me from my small knowledge of Brooklyn that there was any slaughter houses there. 2151

Q. Do you know whether that poultry did go to any such place as Dumont and Brighton? A. I know that it did not, I know where it went.

Q. How did you find out where it went? A. I took the license number of the car of the man that was standing by, called Mr. Dale, who in turn called the Motor Vehicle Bureau, and he gave me the owner of the car as well as his two business addresses, one of which was 127 Sutter.

Q. Who was the owner of the car? A. Morris Wagshaul.

Q. The man you have seen in the premises? A. That is right.

2152 Q. What did you do? A. I immediately went to 127 Sutter, and there on the right-hand side of the street was the same car that I had previously seen that had the same license number in front of Schechfers. I proceeded to the store on Sutter Avenue on my left and entered the establishment, and there was a pile of freshly-killed poultry on the table. An elderly man was standing there, and I asked his permission to examine the poultry, and he said yes, certainly. But previous to that I had marked my inspection
2153 culls by the toe punch method.

Q. That is, you had marked these two chickens? A. That is right.

Q. Which you say were unfit for human consumption? A. Yes, sir.

Q. You say you traced those chickens over to Morris Wagshaul's place? A. That is right.

Q. By getting the license number of the car? A. That is right.

Q. What did you do when you saw those chickens at Morris Wagshaul's place? A. I asked permission to examine the poultry, and I found
2154 the birds that I had toe punched, and just as I got through looking at the pile Morris Wagshaul came over and told me to get out in very violent terms——

Q. What did he say? A. He told me to get the hell——

Mr. Heller: That is objected to.

The Court: Yes, the defendants were not there.

Mr. Rice: Question withdrawn.

Q. What happened? A. So I left the premises.

Q. You just determined that those two unfit chickens had reached Morris Wagshaul's store, is that correct? A. That is right.

Q. You didn't do anything further about it? A. That is right; I tried to get in touch with the Board of Health, but it was unavailable. 2155

Q. Are you sure that those two chickens were unfit for human consumption? A. They were very obviously culls.

Q. Would they be recognized as unfit for human consumption by anybody in the poultry trade? A. Yes, sir.

Q. What was their condition? A. One of them is what is commonly termed as a gaper.

Q. What has been called here a gapper? A. Gapper or gaper, or a bird with infectious laryngotracheitis, affected so that the bird extends its head and then withdraws it and gasps for air. Sometimes a cheesy plug comes in the trachea, and bloody mucous is within the trachea, and it may die. The other was a very emaciated bird, it looked like it was a tubercular bird. 2156

Q. Are you sure that those two birds were among the three-quarters of a coop that were slaughtered during the seven minutes that you were out of the market? A. Yes, because they had been marked. 2157

Q. How much time expired from the time you marked those two birds to the time that you saw them at Wagshaul's store? A. An hour and a half.

Q. An hour and a half? A. Yes.

Q. Did you go back to the Schechter Market on that day, Wednesday, June 27th? A. I don't recall.

Q. At the time when you saw Morris Wagshaul's automobile and took his license number did you have any conversation with Meyer Schechter? A. I tried to find out who the buyer was and Meyer Schechter would not let me look at

the charge book, sort of smiled, and put his fingers up to his nose and told me to go on. "You are dumb," he says; "You'll never get that fellow."

Q. He told you that you were dumb? A. That is right.

Q. Did he say anything else? A. Remarked that "You might as well go home. It is all over with. Nothing doing."

Q. Did he say that you would not be able to
2159 find out who the buyer was? A. Yes, sir.

Q. Did he say you were too dumb to find out? A. Yes, sir.

Q. Was anybody else there at the time? A. Abe Danziger.

Q. What did you do on the following day, Thursday, June 28th? A. On my way to the Schecter establishment I met Shochet Wise on the trolley car, at which time he asked me numerous questions.

The Court: You met who?

The Witness: Shochet Wise.

2160 The Court: That does not bind them, conversation with Wise.

Q. What happened after that? A. We proceeded to the Schechter establishment about 4:55 A. M. There Wise was greeted by Gershon, another shochet, and I went forward to enter the poultry market, and I was greeted with a burst of loud language from Abe Schechter, telling me that I could not enter the establishment.

Q. Was there anybody else present with Abe Schechter? A. There was Sam Cohen, Abe Danziger, and several other buyers that bought poultry there the first thing in the morning.

2161

Q. Just what was said by Abe Schechter? A. Abe told me that I could not enter the establishment regardless of whether I was from the Code or not and he would not let me in, or Peterson, or anyone else from the Code; if Peterson wanted to enter the establishment, "Let him put up $5,000, let him take him as a partner," then he could go in all he wanted to, he could live there, if he wanted. He told me if I went in the place he would kill me, and this was all supplemented by unprintable language.

2162

Q. What was that? A. This was all supplemented by unprintable language.

Q. Do you mean he used vile language? A. Yes, sir.

Q. That you do not want to use here in court?

Mr. Heller: I object to counsel's characterizing the kind of language.

The Court: If he wants it, tell it; if he doesn't, that is the end of it.

2163

Q. You would rather not use the language used by Aaron Schechter on that occasion? A. Yes, sir.

Q. Speak up. A. That is right.

Q. Was there anything else said to you that you can repeat here? A. Not that I recall.

Q. What did you do? A. I went out and sat on the running board, for it was too early to go back to the office. So, about seven o'clock, Abie asked me to go for a ride, and having nothing else to do, and willing to take a chance, I said O. K. So we proceeded to a certain place to deliver a couple of bags of poultry, and on the way over he told me that I should be a nice boy and do like the other investigators and behave myself, and in the meantime his tone had changed considerably from the five o'clock tone.

2164 Q. He did not tell you what he meant by being a nice boy and behaving yourself? A. He told me I should not go out and go into his customers' stores and look at the poultry and try to get affidavits and things like that.

Q. Did he say anything else. A. He admitted several times that he did not kill straight, and he did not care who knew it.

Q. Did he say anything about the Code Authority? A. Not on that trip.

2165 Q. Did he on some other occasion? A. Upon my arrival back, both he and Meyer again brought the question up as to—that is, I tried to get in again and they again refused me entrance, and told me I could not get in, or Peterson, and repeated the same story.

Q. Who did you talk to? A. Both Meyer and Abie then.

Q. Was Alex there? A. I don't recall.

Q. But did Meyer as well as Aaron participate in the conversation? A. Only on the admission of straight killing. The rest of it was directly by Abe.

2166 Q. What did he say after you got back there, anything further? A. No, sir.

Q. What was the next thing that you did? A. Tried to get in, and not being able to, I reported back to the office.

Q. On the following day, June 29th which is a Friday— A. That is right.

Q. (Continuing) —what did you do? A. I proceeded to the establishment, and they again refused me entrance.

Q. Who did? A. Abe Schechter, together with Meyer.

Q. Was Alex there? A. I don't recall.

Q. What did Abe and Meyer Schechter say? A. They told me again that I could not enter, and I had no right entering the establishment. So I asked them if I could use the pay 'phone. They said yes, so I called the police station, asked for a radio car, and the radio car came in a few minutes. I met the two policemen outside and told them my story.

The Court: Never mind what you told them. The defendants were not present.

2168

Q. Were the defendants present? A. Yes, sir.

Q. What happened—just a moment. Which defendants were present? A. Abe and Meyer.

The Court: Outside?

The Witness: Yes, sir, outside of the establishment.

The Court: Where the policemen were?

The Witness: That is right.

Q. Did they come outside when the policemen arrived? A. Yes, sir.

2169

Q. Did they talk to the police officer too? A. Sure.

Q. What was said? A. They told him I had no right going in, and they would not let me in, and the cop had no right letting me in. So the cops, not knowing what to do, called their superior, and still there was a question in their minds, so I accompanied them to their precinct, at which time the lieutenant, not knowing his exact position, told me that I had better go back to the office and drop the matter at that time, which I did.

Q. Mr. Alampi, you have said that you have specialized in poultry and poultry diseases? A. Yes, sir.

Q. At college? A. Yes, sir.

Q. Do you know whether or not poultry diseases are communicable to other poultry? A. Yes, sir.

Q. To what extent? A. Whole car loads may be infected from one or two particular birds.

Q. Do you know whether any scientific experiments have been conducted to ascertain whether avion tuberculosis is communicable from chickens to human beings? A. Yes, sir.

2171 Q. Do you know what the findings of the scientists have been? A. Dr. Klimmer, at Leipsig, Germany, has reviewed the entire literature, and his report claims, and he knows——

Mr. Heller: Unless he is here to testify, so I can cross examine him, I object to the report. He is giving us some report some doctor gave, and the doctor is not here for me to question him.

2172 Q. Never mind what this gentleman said. What studies have you made as to the question of the communicability of tuberculosis from chickens to human beings? A. I have found 37 cases of human t.b. which have been contracted from chickens.

Q. 37 cases where human beings have caught tuberculosis from tubercular chickens? A. That is right.

Mr. Rice: That is all.

Cross examination by Mr. Heller:

Q. Mr. Alampi, what was your work before you accepted this position? A. I was student at the College of Agriculture.

Q. This was your first job, correct? A. Yes, sir.

Q. The job that you received from the Code Authority? A. I had numerous jobs in college.

Q. In college, but not in a place of business? A. That is right.

Q. This is the first job, is that correct? A. (No answer.)

Q. Who gave you this job? A. Mr. Leroy Peterson.

Q. Do you know Mr. Peterson? A. I know 2174
him now, yes, sir.

Q. Did you know him before that? A. Before I accepted the position?

Q. Yes. A. No, sir.

Q. You were recommended by someone? A. Yes, sir.

Q. Can you tell us by whom? A. Dr. W. C. Thompson.

Q. Does he know Mr. Peterson? A. No, sir.

Q. Did he give you a letter of recommendation? A. Mr. Peterson called Dr. Thompson on the 'phone and asked him for his student that 2175
majored in poultry.

Q. And you were assigned to the job? A. That is right.

Q. What do you get a week? A. Now?

Q. Yes. A. Thirty-five.

Q. What did you get when you started? A. Twenty-five.

Q. You got a ten dollar increase? A. That is right.

Q. Was that as a result of the work that you did in this case? A. I know not, sir.

Q. Beg pardon? A. I know not, sir.

Q. It was granted to you without your solicitation? A. I was called in one morning and told that I had an increase of ten dollars in salary.

2176 Q. Mr. Peterson patted you on the back and said you had done a good job, and you could have ten dollars a week extra? A. Not in those words.

Q. But something to that effect? A. He said, "You will get ten dollars a week extra."

Q. Did you study investigation while you were in college? A. Not directly.

Q. This was your first major investigating job, was it? A. Major, yes.

2177 Q. Now, I understand you to say you came to work in the month of June, is that correct? A. Yes, sir.

Q. What day in the month? A. June 18th.

Q. The first job that you were assigned to was the Schechter job? A. No, sir.

Q. You had a couple of jobs before that? A. Yes, sir.

Q. When was the first day that you were assigned to the job, when was that? A. To Schechter?

Q. Yes. A. June 21st.

2178 Q. You mean you were instructed on June 20th to appear there June 21st? A. That is right.

Q. Then do I understand you to say you were there on June 21st? A. Yes, sir.

Q. June 22nd? A. Yes, sir.

Q. June 23rd? A. No, sir.

Q. That was a Saturday? A. Yes, sir.

Q. The next Monday, June 25th? A. Yes, sir.

Q. June 26th? A. Yes, sir.

Q. June 27th? A. Yes, sir.

Q. June 28th? A. Yes, sir.

Q. June 29th? A. Yes, sir.

Q. When did you start in the morning? A. Before their killing.

Q. 6:30 in the morning? A. Well, the killing was at seven o'clock every day except Thursday, when it was five o'clock, and six o'clock on Friday.

Q. So with the exception of Thursday, you were there at 6:30, and on Thursday at 4:30? A. I was there before the killing.

Q. And approximately what time in the morning? A. If the killing was at 7, I would be there before the killing.

Q. So that on all days you were there before 6:30, except Thursday, and you were there at 4:30 on Thursdays? A. Maybe some deviation of a couple of minutes. 2180

Q. That is approximately the time you started to work? A. That is right.

Q. You were at the premises 858 East 52nd Street? A. Yes, sir.

Q. In the slaughter house, is that correct? A. Yes, sir.

Q. You got there in the morning before they started killing, is that it? A. Generally in the slaughter house.

Q. And how long did you stay? A. I stayed until they finished killing, the slaughtering was finished. 2181

Q. Until everybody bought their poultry? A. Until the shochet went home.

Q. When? A. Until the shochet was through, presumably.

Q. You saw the customers come in? A. Yes.

Q. During your stay? A. Yes, sir.

Q. And you had a note book with you? A. Yes, sir.

Q. Each time a customer bought you stood right by the shochet? A. No, sir.

2182 Q. Where were you standing? A. I stood off a fair distance where I could make my observations and record my notes.

Q. In other words, you were standing there with a notebook and pencil in hand? A. No, sir.

Q. Didn't you have a pencil? A. I had a pencil, but I would jot notes down as I would deem advisable.

Q. But you had it with you? A. Yes, sir.

Q. And then as the customer picked his poultry but you stood there and watched it? A. Yes,
2183 sir.

Q. And occasionally you would ask the customer for his name and address, would you not? A. In very few cases.

Q. Can you tell us how you found out the names and addresses without asking the customers? A. Yes; I would look at the charge book and get the information, and ask the workmen.

Q. You would go in the office and refer to the charge book? A. No, sir, I would ask permission to look at the charge book.

2184 Q. You asked permission from the Schechters? A. That is right.

Q. They said you could go ahead and look at them, is that right? A. In some cases.

Q. And then you took the name and address? A. Yes, sir.

Q. And in other cases you asked the customers? A. In some cases.

Q. For their names and addresses? A. Yes, sir.

Q. You did that all during your entire stay, is that correct? A. The latter part I wasn't allowed to look at the books.

Q. But up to that time you did? A. Yes, sir.

Q. Is that right? A. Yes, sir.

Q. Did you get into any arguments with the customers? A. I do not recall now.

Q. On how many occasions did you get into arguments with customers? A. I do not recall.

Q. Not one? A. I say I do not recall; I may have.

Q. Try to refresh your recollection? A. I had one with Izzy Cohen at one time.

Q. Did you have any arguments with any other customers? A. I do not remember off- 2186
hand.

Q. Did you ever hear a customer say, "I am not a thief; what are you watching me for?" Did you ever hear a customer say that? A. Yes, sir.

Q. That was said plenty of times, was it not? A. I won't say plenty.

Q. Didn't some say, "I am not coming back to this market; I am not going to go back and buy at this market unless you get rid of this man"? A. I heard them say that.

Q. They found it objectionable to have you 2187
there, didn't they? A. Well, I do not know whether it was my presence.

Q. They didn't want to be policed, did they? A. Presumably.

Q. When you came there, when you got in there you saw the merchandise already on hand, did you not? A. Yes, sir.

Q. You saw the coops stacked up against the walls? A. Yes, sir.

Q. Plenty of chickens were on hand? A. Yes, sir.

Q. Plenty of coops? A. Yes, sir.

Q. Did you look at them? A. Most of them.

2188 Q. Did you see the labels on them, the inspection labels? A. That I did not observe.

Q. Did you make it your business to see whether those chickens were inspected or not? A. No, sir.

Q. That was not part of your duty at that time? A. It was not, sir.

Q. Your duty was solely what? A. To investigate straight killing and the sale of culls.

Q. They sent you down there for that purpose? A. Yes, sir.

2189 Q. You received instructions, did you not, to find out that, in other words, as to whether or not the Schechters were doing straight killing, or whether or not they sold culls, is that right? A. I was to make an investigation of my observations there.

Q. You were sent down there for that purpose, were you not? A. Yes, sir.

Q. You were told to get all the evidence that you possibly could? A. I was not told to get evidence, no.

2190 Q. Didn't you, as a matter of fact, go to some customers and ask them to sign affidavits? A. Yes, sir.

Q. You did that, didn't you? A. Sure I did.

Q. And they refused you these affidavits, didn't they? A. Sure.

Q. Now let us get this straight: The method of killing was, a customer would come in and say, "I want a coop or a coop and a half," is that correct? A. That is right.

Q. And then he would mark with a cross mark that he wanted coop 1 and coop 2? A. I do not recall whether he did or not.

Q. You do not recall that was done; you were there for seven days, weren't you? A. Yes, sir.

2191

Q. You had ample time to observe that? A. In most cases they were marked the day before with the numbers of their respective business addresses.

Q. Each coop was marked up? A. Not all of them.

Q. Some of them were? A. Yes.

Q. You looked at some of those? A. Not any particular observation of the place.

Q. Didn't you see each and every coop that was there had a label on it inspected? A. That was not my duty; I didn't observe that.

2192

Q. You didn't want to observe that; that wasn't part of your duty? A. No, sir.

Q. The customer would have his chickens designated, or he would pick them out in the morning for slaughtering purposes, wouldn't he? A. He would do his own selecting.

Q. Beg pardon? A. He would do his own selecting.

Q. In other words, what you mean by selection, he would say that coop or that coop or the other coop, wouldn't he? A. Yes, sir.

Q. Then the workmen would take the chickens out of the coops? A. Yes, sir.

2193

Q. And hand them to the shochet, the man that kills them? A. No, sir, hand them to the buyer who in turn would select or would reject them, and he would hand them to the shochet.

Q. And he would hand them to the shochet? A. Yes.

Q. And some of them he would reject, they were culls? A. I don't know why he rejected them.

Q. Didn't you on your direct examination in this case say that they said "I do not want these, they are culls?" A. He said "I do not

want them." I do not think I said anything about culls.

Q. Did you say anything about them being culls? A. I do not recall.

Q. Didn't you say "In my opinion they were, in the other man's opinion they were not," didn't you say that on direct examination? A. Not in those words.

Q. Before a man can ascertain whether a chicken is diseased or whether it is a cull he has to take it in his hands, doesn't he? A. Not in all cases.

2195

Q. Is it necessary to take each chicken from the coop before it is slaughtered? A. Is it necessary——

Q. To take out with your hands from the coop each and every chicken before you give it to the shochet for slaughtering? A. Yes, sir.

Q. And so the workman would take it out of the coop and give it to the buyer, wouldn't he; the buyer would look it over, and then he would say "I will take it" or "I won't take it," is that right? A. That is right.

2196

Q. On all of these occasions, the same process was followed, is that correct? A. Except in some cases where one of the shochtim, where the intermediate man between the workman and the shochet. For instance, I believe a shochet would handle the bird, and I believe when Schechter was doing that the buyer stood looking outside or some place.

Q. And then Abe Schechter would give it to the shochet? A. That is right.

Q. And he would kill it? A. That is right.

Q. But where a buyer was there he would take it or refuse it, is that right? A. The buyer was there anyway in all cases.

Q. He would stand a little away? A. Surely.

Q. And observe what was being done, is that correct? A. In the cases where the buyer didn't handle it he wouldn't observe it, he could not observe what he was getting, he knew beforehand what he was getting.

Q. He had seen the poultry before? A. Surely.

Q. Is that correct? A. Surely.

Q. So if it was handed to him for acceptance, it was handed to the shochet for killing having been accepted, is that right? A. Yes, sir.

2198

Q. After it was handed to the shochet, then he killed it? A. Yes, sir.

Q. And put it in a barrel? A. Yes, sir.

Q. Those that the buyer rejected, were they killed first or put away alive? A. They were put away alive.

Q. In a different place? A Yes, sir.

Q. Is that correct? A. Yes, sir.

Q. Those are the chickens that you examined? A. Yes, sir.

Q. In each one of these cases? A. All my mentioned cases.

2199

Q. All right. Now, tell us the first occasion, what was the first day that you observed the sales of chickens, what was that day? A. June 22nd.

Q. On June 22nd, how many chickens were selected on June 22nd and how many were rejected? A. This particular sale 961 Blake Avenue, 39 accepted and 6 rejected.

Q. From where did these 39 and 6 come from? A. From one full coop.

Q. That was a full coop? A. That is right.

Q. And the man accepted 39 of that coop, and the other 6 he refused? A. That is right.

2200

Q. And those 6 were placed in a different place? A. That is right.

Q. In another coop? A. Yes, sir.

Q. Did you examine them at the time the buyer rejected them or subsequently? A. In that particular case the buyer, myself, and one of the Schechters and a shochet examined them, and they said four of them are O. K. but the buyer did not want them.

Q. Who said four were O. K.? A. The Schechters and the shochet.

2201

Q. They said four looked all right to them? A. Yes, sir, but the buyer would not take them.

Q. What did the buyer say? A. He would not take them.

Q. What did he say? A. He said, "I do not want them."

Q. Did he say they didn't look good to him? A. No, he said, "I don't want them."

Q. What did he say as to the other two, they didn't look good to him? A. He didn't make any statement of the other two that I recall.

2202

Q. He left the determination as to whether they were good to Schechter and the shochet? A. He would not take them.

Q. Did they say that they were not good? A. Who?

Q. Schechter and the shochet, did they say that they were not fit? A. No, sir.

Q. He said, "I do not want them?" A. Yes, sir.

Q. Then those chickens were put away? A. Yes, sir.

Q. And then what did you do? A. I waited until the sale was made of these particular birds, but when I left those birds had not been sold.

Q. You mean those six birds? A. Yes, sir.

Q. When did you identify those six, at that moment when they were rejected? A. Yes, sir.

Q. While they were alive? A. Yes, sir.

Q. Is that right? A. Yes, sir.

Q. You say you went over there with your razor blade, is that right? A. That day I did not have my razor blade with me.

Q. How did you cut them? A. I did not cut them that day.

Q. You did not do anything that day? A. No, sir.

2204

Q. Is that right? A. Yes, sir.

Q. You made a close inspection of each and every one of those six chickens? A. Yes, sir.

Q. Right there at that time? A. Yes, sir.

Q. And of those six chickens you say two were unfit for human consumption? A. No, sir.

Q. You were an expert, were you not? A. I am not saying.

Q. You consider yourself expert, don't you? A. Yes, sir.

Q. You know when a chicken is diseased or not? A. Yes, sir.

2205

Q. You have the training for that? A. Yes, sir.

Q. You came to the conclusion that two of those six were diseased? A. Yes, sir.

Q. And not fit for human consumption? A. Yes, sir.

Q. Did you say that to anybody? A. No, sir.

Q. You permitted them to be placed elsewhere, is that right, for sale? A. They put them somewhere else, I did not permit them, they did it of their own accord.

Q. You did not make any objection to them putting them some other place at that particular moment? A. I did not get that.

2206 Q. You did not say a word to anybody that they were diseased chickens? A. Yes, sir.

Q. You just kept your mouth shut? A. Yes, sir.

Q. You were ready and willing to put that in as a piece of evidence? A. I put it in my report.

Q. You didn't say a thing to anybody about it? A. No, sir.

Q. You didn't warn them that they were diseased? A. No, sir.

2207 Q. You said nothing? A. That is right.

Q. What happened the next day?

The Court: Are you going to be long with this witness?

Mr. Heller: I will be with him for three-quarters of an hour.

The Court: Then we had better take a recess. Gentlemen, do not discuss the case with anybody, do not allow anyone to discuss it with you, keep your minds open until it is finally submitted to you, come back tomorrow morning at ten

2208 o'clock.

(Adjourned to Tuesday, October 23, 1934, 10 A. M.)

Brooklyn, N. Y., October 23, 1934.

Met pursuant to adjournment at 10 A. M.; present as before.

PHILIP ALAMPI, resumed the stand.

Cross examination continued by Mr. Heller:

Q. Mr. Alampi, did you refresh your recollection over night about this case? A. Somewhat.

Q. Did you talk to anybody about the case? A. Yes, sir. 2210

Q. To whom? A. To the Government officials.

Q. Did you speak also to Mr. Peterson about the case? A. No, sir.

Q. Now, Mr. Alampi, when did you graduate from college? A. June 9th.

Q. This year? A. 1934.

Mr. Rice: Will you speak up a little louder, Mr. Alampi?

The Witness: June 9, 1934.

Q. Three weeks thereafter you got this job, is that correct? A. What is that? 2211

Q. In about three weeks thereafter you got this job? A. Less than that.

Q. What college did you graduate from? A. Rutgers University.

Q. Where is Rutgers University located? A. New Brunswick, New Jersey.

Q. How long have you been living in this State? A. Now?

Q. Yes. A. Since June 18th when——

Q. When you got this job? A. That is right.

2212 Q. Before that you were not a resident of the City of New York or State of New York? A. That is right.

Q. Of the State of New Jersey? A. Yes, sir.

Q. You had lived there all your life? A. No, sir, I was born in Philadelphia, but later moved to Williamstown.

Q. What subjects did you take up, will you tell us, during your first year in college? A. The first year in college I spent in taking up
2213 the general curricula which all students majoring in agriculture take up.

Q. Mention the particular subjects. A. Chemistry, botany——

Q. Yes. A. English, mathematics, military science, soils, agriculture.

Q. Languages? A. No languages at all.

Q. You didn't study any languages? A. No.

Q. In the second year what did you take up? A. Organic chemistry, zoology, poultry, horticulture, dairy, plant physiology, English, mathematics.

2214 Q. What did you take up your third year? A. The third year I took up poultry pathology, poultry feeding, poultry management, entymology, bacteriology, genetics.

Q. English? A. No English in the third year.

Q. And in the fourth year? A. The fourth year I had economics, rural sociology, advanced poultry diseases, poultry management, poultry marketing, agricultural economics, general economics, agricultural education, agricultural extension, animal breeding and dairy husbandry.

Q. How many hours, on the average, per day did you spend in class room work during the fourth year? A. In actual lectures?

Q. Yes, lectures. A. Approximately from 8 A. M. to 4 P. M. 2215

Q. During the fourth year? A. That is right.

Q. Those were lectures given to you by your college professors, is that right? A. Yes, sir.

Q. And during the third year? A. Approximately the same.

Q. The second year? A. Approximately from 8 to 3 on an average.

Q. Then your training consisted of lectures from professors at the college from 8 to 4 in the afternoon, is that correct? A. In part. 2216

Q. Did you spend most of that time on the campus, in the class rooms? A. About half the time in the class room and about half the time in the field, what we call laboratory work.

Q. That is in the college laboratory? The laboratory is located on the college campus? A. By laboratory we mean actual participation in various poultry farms and at the college poultry farm doing actual work.

Q. The college has a poultry farm adjoining to it? A. That is right.

Q. Is that correct? A. Yes, sir. 2217

Q. That is what you call laboratory work? A. That was in part some of our laboratory work.

Q. And all you received when you graduated was a B.S.? A. Yes, sir.

Q. The degree of Bachelor of Science? A. In agriculture.

Q. Bachelor of Science in agriculture, isn't that correct? A. Yes, sir.

Q. And do you think that qualified you as an expert? A. That, plus my entire life spent in poultry husbandry.

2218 Q. You mean before you went to college? A. Yes. I lived on a poultry farm before I went to college, and I went through college on a flock of 125 chickens, worked my way through school with chickens.

Q. I didn't quite catch the meaning of that, you worked your way through. A. In my freshman year when I came to college I had my personal belongings, $60, and 125 white leghorn chickens.

2219 Q. You brought the chickens from your home to high school? A. From my home.

Q. You brought your personal belongings, $60 in cash and 125 white leghorn chickens? A. That is right.

Q. And you think that qualifies you as an expert? A. I took care of those chickens while I was in college. I placed those chickens on the college poultry farm, and I would rise every morning about six o'clock, feed them, feed them at noon, and take care of them at night and retail the eggs to the college professors. In that way I worked my way through school.

2220 Q. How old were you when you were in high school? A. In high school?

Q. Yes, when you entered high school how old were you then? A. I entered in 1926, I am 22 now; about 14.

Q. And when you graduated from high school you were 18? A. That is right.

Q. And when you graduated from college you were 24? A. 22.

Q. That is your age at present, is that correct? A. Yes, sir.

Q. You are not married, are you? A. No, sir.

Q. The first time you were sent to visit premises 858 East 52nd Street you were asked to get the names of the members of the firm, is that correct? A. To find who the actual participants were.

Q. Those were your first instructions? A. Together with watching the straight killing and sale of culls.

Q. Who gave you those instructions? A. Mr. William Wright, our chief investigator.

Q. He told you to go down and find out who the members of the firm were and plant yourself and see how they conducted their business with reference to straight killing, is that correct? A. He told me to pursue the regular routine of investigation. 2222

Q. What was the regular routine of investigation? A. Briefly, go into an establishment, find who the workmen were, who the responsible parties were, if it was a corporation, individual or partnership, and then watch for violations of straight killing and sale of culls.

Q. What do you mean by, to watch for violations of straight killing? A. To see whether they violated the straight killing provision of the Code. 2223

Q. So that on the first day you came there you spoke to workmen, is that correct? A. The first man I spoke to was Alex Schechter.

Q. And you asked him who the members of the firm were? A. I asked him who he was and who the other members of the firm were, and who the workmen were.

Q. And he gave you the names of the members of the firm? A. Yes, sir.

Q. And told you the names of the workmen, pointed them out to you? A. Upon my first en-

tering the establishment, he did not, but later I found out.

Q. You found out the names of the workmen? A. Yes.

Q. Did you ask them personally? A. That I don't recall right now.

Q. But you found that out somehow? A. Yes.

Q. And when you came in you wore a badge, is that correct? A. I wore a regular Code Authority badge.

2225

Q. You pinned that on your lapel? A. I had it on my vest.

Q. Did you keep your jacket open so everybody could see you had a badge? A. Not particularly.

Q. Did you show it to anybody? A. Not until I was requested to show my authority.

Q. Then you showed your badge? A. Yes, sir.

Q. Did you show your badge to any customer? A. Several of them requested to see it and wanted to polish it.

2226

Q. Some of them wanted to shine it, some of the customers? A. Yes.

Q. It wasn't shiny, is that it? A. I don't recall.

Q. It wasn't shiny on that day? A. I don't recall.

Q. June 21st was the first day that you observed conditions in the premises? A. June 21 was my first day there.

Q. You came there very early in the morning? A. The exact time is incorporated in my minutes.

Q. You were told to make minutes of what transpired? A. The first day I was just to

2227

make general observations of the place and observe the violations as before.

Q. Then you went back—did you say violations as before? A. Violations of straight killing, sale of culls, that I previously mentioned.

Q. You were there prior to the 21st? A. No, sir.

Q. We are talking about the first day—— A. 21st was the first day I was there, Thursday.

Q. You were sent there with instructions to make a memorandum of what you saw? A. Yes.

2228

Q. You made such memorandum? A. On pieces of——

Q. Paper? A. Paper.

Q. And you incorporated it in a memorandum when you got back to the office? A. I later dictated a report from those notes.

Q. There is no question that you reached there before the killing of chickens took place the first day? A. That is incorporated in my report. I cannot just remember offhand now.

Q. Don't you remember stating yesterday you were there during the entire time of killing every day of your stay at the premises? A. May I refresh my memory by looking at my notes?

2229

Q. Yes, surely. A. Have you the original, Mr. Rice?

(Mr. Rice hands papers to the witness.)

A. The first day, the 21st, I had trouble in finding the establishment, I was a little late in arriving. They had already started slaughtering when I arrived.

Q. What time did you get there? A. Approximately a little after six.

Q. Six in the morning? A. Yes.

2230 Q. When you arrived there were customers there, weren't there, who were purchasing chickens? A. Purchasing chickens, that is right.

Q. And they would take the chickens from the coops, or the workmen would, and give them to the rabbi to slaughter? A. The workmen would pull the chicken from the coop, hand it the respective buyer, who in turn gave it to the shochet to kill.

Q. The only ones who kill chickens are the shochets, is that right? A. That is right.

2231 Q. You never saw any of the Schechters kill any of the chickens, did you? A. I never saw them slaughter them, by the method that the shochets use.

Q. You know that in the Jewish law the shochet can kill a chicken? A. I am not very familiar with the Jewish laws.

Q. You don't know anything about it? A. I know somewhat, but not all.

Q. You testified yesterday that you toe-punched some of the chickens, didn't you? A. Yes, sir.

2232 Q. And that occurred while the chickens were alive, is that correct? A. That is right, sir.

Q. Don't you know that that is an offense against the Jewish laws? A. Toe-punch chickens?

Q. Yes. A. I don't know of any particular phase in the Jewish laws——

Q. You are not a Hebrew, are you? A. No, sir.

Q. You did not tell the Schechters that you toe-punched those chickens, did you? A. No, sir.

Q. Kept that as a secret to yourself? A. Yes, sir.

Q. Do you know that a person eating a chicken after having been toe-punched by a Christian is committing a sin, do you know that? A. I don't, sir.

Q. You did not inquire about that? A. No, sir.

Q. You did not ask for permission whether you could toe-punch those chickens? A. No, sir.

Q. They were not your property, were they? A. They were not my property.

Q. You had no interest in that business, did you? 2234 A. Yes, sir.

Q. A proprietary interest? A. No, sir.

Q. Did you make an investment in the business? A. I did not, sir.

Q. Were you responsible for the bills? A. I don't believe so.

Q. All you got out of this was $35 a week, wasn't it? A. Not exactly.

Q. After you got your increase? A. Not exactly.

Q. The college boy made good, didn't he? A. I wouldn't put it in those words.

Q. $35 is a good salary for a boy coming out 2235 of college? A. It isn't bad.

Q. It isn't good at all, is it? A. I am not saying that.

Q. There is no question about this, during your entire stay, all you did was a secret within the inner recesses of your heart? A. Will you state that again?

Q. All right, I will put it in plain English: During your entire study and all the investigation work that you did, and all the findings that you made, they were kept to yourself? A. They are incorporated in my reports and those re-

ports went through the regular channels in the office.

Q. Now besides the Code Authority people and yourself no one else knew what you did? A. Excepting my immediate family at home.

Q. You told them about it? A. I told them of some of my work with the Code Authority and some of the ways in which we were doing our work.

Q. You told them about these violations? A. What particular one are you referring to?

2237

Q. The same ones that you are referring to. A. On what particular day?

Q. At any time. A. I mentioned that we were observing violations.

Q. And you are a confidential investigator? A. So far as the Code Authority was concerned, yes, sir.

Q. But in so far as you were concerned you were not? A. I would not put it in those words.

Q. You were telling everybody about it except the Schechters and still you think it is confidential?

2238

Mr. Rice: Now I submit, your Honor, that that is not fair. The witness has not testified that he told everybody.

The Court: No.

Q. Now on June 21st you came a little late, but that was 6:30? A. The exact time I don't know.

Q. Approximately 6:30 in the morning? A. A few minutes before, probably.

Q. And how many hours of that day did you stay at the premises? Do you want to refresh your recollection from the record? A. If I may.

2239

Q. I will show you your report. How many hours of that day were you there? A. I stayed there on till 5 o'clock, until the killing was over.

Q. Now from 6 to 5 in the afternoon, from 6 in the morning until 5 in the afternoon? A. Yes, sir.

Q. The entire day? A. Yes, sir.

Q. And you watched each and every thing that was done from 6 in the morning until 5 in the afternoon? A. I didn't say everything.

Q. You were there? A. Yes.

2240

Q. And as much as your eyes could observe you observed? A. Within my power.

Q. You were not thrown out on that day? A. No, sir.

Q. You were permitted to do whatever you pleased? A. I was permitted to go about my duties at the premises at No. 858 East 52nd Street.

Q. It was not your premises, was it? A. No, sir.

2241

Q. Now when you observed the killing on that first day, tell us just what you saw. A. The first day I was approached by Alex Schechter and he immediately started getting in the air as to why I was there and what my duties were and he complained about everybody else in the industry, he was doing right, but everybody else was doing wrong. My first day was merely to get acquainted as to who was there and about their method of doing business.

Q. You inquired from 6 in the morning until 5 o'clock to find out who was there and what is what? A. Not exactly.

Q. Tell us what you observed on the 21st—what complaint have you to make with reference to the Schechters on June 21st? A. I saw several customers buy poultry.

2242 Q. There is nothing unusual about that, is there? A. No, just the regular routine business, and then later in the day I saw two workmen, Cohen and Danziger, re-grading birds, which is a common occurrence in that slaughter house.

Q. Did you say it was then common occurrence in the slaughter house? A. It was done every time I have been there in the slaughter house.

Q. Wasn't that first day the first day you were there? A. Yes.

2243 Q. And already that was in your mind as a common occurrence, the first day you were there?

Mr. Rice: If your Honor please, the witness stated very distinctly that that is a common occurrence and then immediately Mr. Heller says you say that that had been a common occurrence. The witness said no it was——

The Witness: What I said was that it was a common occurrence each time I was there.

2244 The Court: Of course he cannot say what happened before he was there because he did not see it.

Mr. Rice: Obviously, your Honor.

The Court (to the witness): When you are talking about a common occurrence you refer to when?

The Witness: Starting the first day I was there June 21st, and what I observed with my own eyes.

Q. How many customers did you see come in on June 21st? A. I don't know.

Q. How many gradings were there on June 21st? A. I have it incorporated in the notes. According to my notes he had 40 coops and he killed about 20.

Q. Now you must have been near those coops in order to count them? A. Enough distance so that I could easily count them.

Q. You were standing in front of them when you counted them or on the side? A. The coops were lined up on the left-hand side of the establishment as you enter and I stayed in the middle of the right-hand side wall counting the coops. 2246

Q. Facing the coops? A. Facing the end part of the coops.

Q. You were at the end part of the coop? A. The coops were up against the left-hand side wall and I counted them from the right-hand side.

Q. And how many feet away from the coops were you? A. I should judge 10 feet, maybe 8 feet.

Q. Your vision was good? A. Presumably.

Q. And you were able to count the numbers? A. Yes, sir. 2247

Q. One by one? A. Yes, sir.

Q. And did you say yesterday you did not observe whether or not those coops had the labels placed upon them when they were inspected or not? A. I did not observe any labels.

Q. You saw none at all? A. I am not saying that.

Q. Did you see any without labels? A. I don't know.

Q. You did not incorporate that in your report? A. I had no duty to perform in regard to inspection labels.

2248 Q. You did not look for anything that was beneficial to the Schechters, did you? A. I would not say that in those words, I had my duties to perform on straight killing and culls.

Q. You were sent out to get whatever damaging testimony against the Schechters you could get? A. I would not say damaging testimony as I said before—my duties.

Q. How many times did you see the performance of slaughtering of chickens on June 21st? A. I did not keep any tally of that.

2249 Q. Do you know how many customers, how many chickens they had slaughtered on that day? A. I do not, sir.

Q. You don't know anything about that? A. Not the first day.

Q. Just the first day you made a report merely of your observations? A. Observations and conversations that ensued during that day.

Q. That is all that took place on that day? A. I watched the workmen re-grade the birds and we saw six culls which Alex admitted they were culls, and four were emaciated and two had

2250 tumors.

Q. Tell us when you observed those four culls and what transpired. A. On that particular morning the poultry that was left in each coop overnight was re-graded again and the workmen pulled the birds from one coop and throw them in another, feeling the birds for quality. I observed six birds and I asked Alex Schechter and the workmen what they were and Alex said that they were culls.

Q. And what did you understand by culls at that time? A. Poultry unfit for human consumption.

Q. And does that mean you cannot eat them? A. I said unfit for human consumption.

Q. Will you explain that? A. In my opinion——

Q. Never mind your opinion, what does it mean? A. I can only quote my own opinion.

Q. You have been in this poultry business—have you done any business in it? A. Which end?

Q. The end of buying and selling. A. I have marketed poultry.

Q. On paper in a class room? A. Not actually, I have actually marketed poultry in Philadelphia. 2252

Q. You mean you raised them? A. Yes.

Q. And that is what you mean by marketing? A. No, I grew the birds, fattened them and marketed them in the city.

Q. You sold them one by one? A. By the baskets.

Q. How many baskets did you sell? A. I don't know that. It was back when I was in high school.

Q. A boy of 16 years of age? A. Probably, 16 or 17.

Q. Did you ever have experience of buying and selling chickens at West Washington Market or any wholesale slaughter house market in the City of New York for yourself or anyone else? 2253 A. Not that I recall, sir.

Q. Now what is meant by an unfit chicken, let us get your opinion now. A. My opinion is based upon my experience and also by the definition——

Q. What does it mean—we know your experience. A. A bird unfit for human consumption is self-explanatory.

Mr. Rice: If your Honor pleases, this witness is being called upon to express his

2254 opinion, he certainly has the right to state what his opinion is based on.

The Court: He has, but he has stated what his experience was. It is entirely unnecessary to repeat it each time saying my opinion, based on my experience—this trial should be tried expeditiously.

The Witness: Any diseased poultry is unfit for human consumption.

2255 Q. All those six chickens were diseased? A. Yes, by the admission of Alex Schechter and the workmen.

Q. What diseases did you find in those chickens? A. Four were emaciated and not inclined to move about.

Q. Now what do you mean by emaciation? A. The wasting away of the breast muscles.

Q. They had thin breasts? A. Extremely.

Q. You would not die from eating a chicken that has a thin breast, would you? A. Those words are not right.

2256 Q. They are not right, that is all. Did you cut those chickens open? A. No, sir.

Q. You didn't do that, did you? A. No, sir, I had no authority to cut the chickens open.

Q. Did you file a complaint with the Schechters? A. What do you mean file a complaint?

Q. That those chickens were diseased? A. Alex Schechter admitted that they were culls, and said that he would destroy them, but he did not destroy them.

Q. He told you they were culls? A. He did.

Q. But he didn't destroy them? A. No.

Q. What did he do with them? A. He left them in the coop and they were not destroyed when I left.

2257

Q. When you came back the next day did you find those six chickens? A. I do not know.

Q. Did you toe punch those six? A. I did not.

Q. You do not know what happened to those six? A. No, sir.

Q. On June 22nd, tell us what happened on that day? What time did you get there in the morning? A. May I refer to my notes?

Q. Yes, surely. A. I arrived at exactly 5:50 A. M.

Q. In the morning? A. Yes, sir.

2258

Q. How many hours did you stay there on that day? A. I left there at exactly 11:15 A. M.

Q. Did you come back that day? A. No, sir.

Q. Tell us what you found happen on that day? A. That particular day Meyer was there.

Q. Meyer Schechter? A. That is right. And Abie arrived about 6:15. The first killing occurred about 6:30, and it was for 961 Blake Avenue, at which time Cohen pulled 45 birds from a coop, a full coop.

Q. Is Cohen an employee? A. He is a workman there.

2259

The Court: Now we will take a recess for a few minutes (addressing jury): Gentlemen, do not discuss the case, do not permit anyone to discuss it with you; we will take a short recess.

(A ten-minute recess was taken, during which time the jury left the court room.)

Q. Mr. Alampi, do you know how many inspectors were employed on June 22nd? A. From what office?

Q. At your office? A. How many were employed?

2260 Q. Yes. A. I don't know the exact number.

Q. Four? A. At least four.

Q. Not more than six? A. I don't know, sir. I do not know.

Q. Have you ever met them? A. Yes.

Q. Met some of them? A. It has been—I believe so. I was new on the work. I believe that I met them. In the meantime we were taking on new men and laying some others off. On that particular day I don't recall.

2261 Q. Taking on and laying off men from week to week, you mean? A. That was not the usual custom, but at that time they were being taken on and one or two dropped.

Q. Can you approximate how many inspectors there were employed at that time? A. Oh, I don't know, seven or eight, approximately.

Q. Do you know for a fact that there are 350 markets under your jurisdiction, or are there more? A. I don't know that number, sir.

Q. You have not visited 350 yourself, have you? A. You mean the Metropolitan area?

Q. Yes. A. All of them?

2262 Q. Yes. A. No, sir.

Q. Have you visited a hundred? A. Up until now?

Q. Yes. A. I have, sir.

Q. From day to day? A. Not with regularity. I have been to a hundred places since I have been on the job.

Q. All told? A. More than a hundred.

Q. That is from the month of June to the present time? A. Yes, sir.

Q. That is correct, you were there from June 21st to June 29th, is that correct? A. June 29th inclusive.

Q. Yes; every day? A. Yes, sir, except—no, no, I wasn't there Saturday or Sunday.

Q. Yes. During that period of time you did not visit any other markets, did you? A. I don't think I did.

Q. Do you know whether there was another inspector at 991 Rockaway Avenue while you were at 858 East 52nd Street? A. I do not know that, sir.

Q. Never spoke to him, did you? A. There was one inspector on one day, but I don't remember which day, but I remember that Inspector Lenhardt had been stationed at one of the Schechters; which, I don't know. 2264

Q. Coming back to June 22nd, you were there until 11:15? A. That is right, sir.

Q. From 4:30 in the morning, 5:30 A. M. in the morning, is that correct? A. Yes, sir.

Q. Who took the chickens out on that day from the coops? A. The particular violations that I observed, Mr. Cohen did.

Q. Did you see him take out all the chickens during the day—during your stay, rather? A. You mean he handled every bird? 2265

Q. Yes. A. I don't know that, sir.

Q. Any other workmen handling birds? A. Probably Danziger had handled some birds too.

Q. Do you know how many customers were there in the morning? A. I do not know, sir.

Q. Did you make a record of each transaction that morning? A. No, sir.

Q. Same process was followed that morning as the previous morning, was it not? A. In what respect?

Q. In the way of handling of the chickens? A. The same, approximately same trio, that is, Cohen and the buyer and the shochet.

2266 *Philip Alampi—By Govt.—Cross*

Q. And when you speak of a killing you mean a slaughtering of the poultry as it is purchased? A. That is, a shochet kills it, and that is what we call a kill.

Q. That is what you call a killing, don't you? A. That is right.

Q. You did not observe the second day whether all the poultry was inspected poultry, did you? A. I did not observe at any time whether it was inspected.

2267 Q. During the entire period you were there? A. That is right.

Q. You did not examine the poultry yourself to see whether they were healthy or not while in the coops? A. Previous to my observation of violations?

Q. Yes. A. I observed them at the time they were sold and rejected—rejected and sold.

Q. When you got there in the morning had the chickens been there? A. The chickens were in the coops.

Q. All crated up? A. All cooped up.

Q. Is that correct? A. Yes, sir.

2268 Q. Did you examine them while you were there as to whether or not they were healthy? A. Before they were sold?

Q. Yes. A. No, sir.

Q. Made no examination whatsoever? A. No, sir.

Q. You waited until the killing took place? A. That is right, sir.

Q. Take one case on the 22nd, when you claimed they did not kill straight. Give us the operation of that transaction and all the details. A. Do you want to know the exact details?

Q. Exactly what happened. A. Do you mind if I read them, as my notes——

Q. No, refresh your recollection and tell us. A. Will I read this? Mr. Cohen——

The Court: Read that over now first. Do not get yourself mixed up. Read it over, and then, having read it over, why, then, tell us what happened. Better read it because he will ask you a question.

A. (Continuing.) The buyer wanted some poultry, so Meyer——

Q. What was the name of the buyer? A. I only know the address, 961 Blake Avenue. He wanted some poultry, so Meyer ordered a kill for him. 2270

Q. What do you mean by ordered a killing? A. Told the workmen to kill them.

Q. Pointing to what? A. To coop which had No. 849, which was the seventh tier high.

Q. All filled with chickens? A. That is right, full coop.

Q. Told him to fill that coop? A. That is right.

Q. And then what happened? A. And Cohen pulled the birds from the coop, handed them to the buyer, who examined the birds, and the buyer, the ones he accepted, in turn handed them to the shochet, who slaughtered them, and threw them into the barrel. 2271

Q. When you say he examined them, what did the buyer do? A. Generally pulls back its feathers, looks at the breast, and feels them; a general observation of the quality of the poultry.

Q. Then he handed them to the shochet? A. The ones he accepted.

Q. Is that right? A. The rejected——

2272 *Philip Alampi—By Govt.—Cross*

Q. How many were in the coop? A. 45 birds were emptied from the coop; 39 were accepted and 6 were rejected.

Q. You counted each and every bird as it was handed? A. That is right.

Q. Is that correct? A. Yes, sir, in that particular case.

Q. And you also took down the number of the coop? A. The coop had black number 849 on it.

2273 Q. You took that down? A. Seventh tier high.

Q. You took it down? A. Yes, sir.

Q. You counted them, whether it was the seventh or the sixth tier? A. That is right, sir.

Q. Began counting from the bottom up? A. That is right, sir.

Q. You did not observe whether it had any inspection slips while you were doing that? A. No, sir.

Q. Then you counted the exact birds given from man to man? A. That were noted there.

Q. From Cohen to the buyer? A. And from the buyer to the shochet.

2274 Q. When did you make that memorandum, immediately? A. As soon as the killing was finished.

Q. You wrote everything down on a piece of paper? A. I jotted down my notes briefly.

Q. What did the buyer do when he rejected the chickens? A. Looked at them and handed them back to Cohen, and he threw them into an empty coop.

Q. What was said when he rejected the chickens? A. Nothing, except he looked at the birds and nodded his head and threw them back into the coop.

2275

Q. Nodded his head, no good? A. I don't know what he meant; he just nodded his head.

Q. Did you ask him what he meant? A. At that time?

Q. Yes. A. Alex remarked—I remarked to Alex what is the matter with those birds, he rejected six of them and Alex, together with the buyer, the shochet and Alex together with myself looked at the four birds and we agreed that they were O. K. but the buyer would not accept them.

2276

Q. Do you mean that all six were healthy? A. Four were O. K. and the two that were not healthy, one had a broken wing and the other was a paralyzed bird.

Q. You four agreed that that is not a fit chicken? A. We did not agree to the fitness of the chicken. We agreed that the four birds—the four of the six—Alex and the shochet and myself said they were O. K., but the buyer would not accept them.

Q. Do you know the weight of those four chickens? A. I did not weigh them.

2277

Q. Well, can you approximate the weight of each of those four chickens? A. They may have weighed three pounds, I don't know.

Q. Did you examine them and hold them in your hands, those four chickens? A. No.

Q. The only one that did that was the buyer? A. The buyer and Alex.

Q. You did not take them in your hands, did you? A. No.

Q. Now the same happened on the 26th and the 27th—the same process? A. On the 26th Cohen again pulled the birds and handed them to the buyer.

Q. The same process on the 26th, 27th and the 28th? A: Not the same men.

2278 Q. Different buyers, is that correct? A. That's right.

Q. Did you observe at what price the poultry was sold? A. What day?

Q. Each and every one of the days you were there. A. In some cases I did and in some I could not because they would not let me examine the charge book.

Q. You went to the charge book, did you? A. I asked one of the Schechter boys to let me look at the charge book so I could get the facts as to
2279 what they were sold at and the number of pounds.

Q. And were you instructed to get that information? A. I was to get the price per pound and the exact number of pounds and how much poultry was slaughtered and how much was rejected.

Q. And you asked some of the customers to let you know how much they were paying for the poultry? A. I don't remember any place where I asked the customer for the price, but I did ask the Schechters.

2280 Q. You never spoke to the customers while you were there? A. I spoke to them, but I don't remember asking for prices.

Q. Do you remember getting into a heated argument with a customer where unprintable language was used? A. I would not say that. The specific instance was when Mr. Izzy Cohen, who claimed one day that I had no right to look at the books and so forth, and I said don't you keep books, Mr. Cohen, and he said no; I remember every day just how much I make and I said, well can you tell me how much you made a year ago today and he said sure, $1.50. I said well how about two years ago today and he said sure,

$2.50. I said I don't believe you, I think you are full of shit.

Q. You think that was a proper thing to say as an investigator for the Government? A. I am not saying that it was a proper thing to say, but one must protect himself.

Q. Well, did he attack you? A. No, he didn't attack me, but he used words worse than mine.

Q. Then words that were unprintable or rather are unprintable were used? A. I only used those words and he retaliated with words stronger than 2282
that.

Q. Did you have any business with this man? A. No, sir.

Q. Was he your customer? A. He was not, sir.

Q. Were you paying him for anything? A. No.

Q. Was he paying you for anything? A. No.

Q. He owed you no duty did he? A. Owed me a duty?

Q. No duty to you. A. Well, if he was under the Live Poultry Code and we were investigating he would be under our surveillance. 2283

Q. In other words you are superior to all merchants? A. I cannot put myself in that category.

Q. You are not the boss of everybody? A. Of course not.

Q. Now Mr. Cohen, he is the only customer that you spoke to? A. I spoke to several other customers.

Q. How many customers did you speak to? A. That is impossible to remember.

Q. How many customers did you go to with affidavits asking them to sign them? A. I did not have any affidavits to sign excepting I asked Mr. Stauber of 1750 Prospect Place if he would sign

2284 the affidavit, that his admission the day previous, when he said that Abe Schechter forced culls on him, was the truth, the day that Seabrook condemned the birds.

Q. You wanted him to sign an affidavit that Abe Schechter forced him to buy culls? A. He said that he forced the birds on him.

Q. You mean held him by his neck and told him he had to take them? A. No.

Q. Were you there when he told him he had
2285 to take them? A. I did not hear any conversation between the two of them.

Q. Well, how did you know that he forced upon him culls, who told you that? A. Stauber himself, the buyer.

Q. When did he tell you that? A. The day that Seabrook and I went to his establishment and condemned the birds.

Q. Then for the first time you wanted him to tell you that he was forced to buy culls? A. He admitted on his own hook that he was forced to take these birds from Abe Schechter and I said
2286 will you put that in writing and he said come back tomorrow.

Q. Did you go back the next day? A. I did, but he was not there.

Q. And you never approached him again about it? A. No.

Q. Did you go to any other customer for an affidavit? A. No, sir.

Q. Did you make a report to the Code Authority as to the altercations you had with customers? A. No.

Q. You did not say anything to Mr. Peterson that you called a man such and such a name? A. I didn't call anybody such and such a name.

Q. You did not tell him that you used language unfit for a person to use working for the Code Authority? A. I did not use any, sir, except that one time.

Q. You don't call that unfit language? A. Presumably no when he retaliated with worse than that.

Q. Well, when you say Abe Schechter took you for a ride, now you don't mean at the point of a gun, do you? A. No, he asked me to go for a ride and as I had nothing else to do right then I was willing to take a chance and I went. 2288

Q. Now what do you mean by taking a chance? A. Well, after the reception I got that morning I figured I was taking a chance.

Q. You mean that he first threatened you? A. Yes, he threatened me and said he would kill me if I went into the place.

Q. And then you took a ride with him? A. Yes.

Q. And you were not afraid of him? A. I would not say that.

Q. He asked you to go in his car? A. Yes.

Q. Did he force you in at the point of a gun? 2289
A. No.

Q. Did you enjoy the ride? A. Presumably.

Q. Did you get paid for taking that ride? A. What do you mean by that?

Q. Well, they did not deduct any money from your pay for the time you lost taking that ride? A. No, sir, that was not losing time.

Q. Don't you call that losing time? A. That was not losing time, that was part of my investigation work.

Q. You took a ride with him, is that correct? A. Well, not exactly those words.

2290 Q. Then I understand you to say yesterday that he pleaded with you in the car, "Please do not go to our customers and ask them for affidavits, leave us alone"? A. And "Be a nice boy," and all that kind of stuff.

Q. He said that to you? A. He said that to me, yes, sir.

Q. Didn't he tell you that the customers were complaining about your being there, that he was losing money and losing customers, didn't he say that? A. He did, sir.

2291 Q. Didn't he say that the customers objected to being watched with notebooks? A. He didn't say anything about notebooks. He said some customers were afraid of being involved in a lawsuit, and they didn't feel that they wanted to be involved.

Q. Didn't he say that the customers for their money can go elsewhere without being watched? A. Some of the customers made that remark.

Q. They did say that, didn't they? A. And Schechter boasted several times to the customers, "I want you to come to my lawsuit, we

2292 are going to have a great big lawsuit and I want you to come to it."

Q. You had not said that there was going to be a lawsuit, had you? A. It seemed that Schechter knew all about that.

Q. You didn't tell him, did you? A. I did not, I never even hinted at it.

Q. You knew about it? A. No, sir.

Q. And you didn't hint about it? A. No, sir; I did not. He did voluntarily state, "You ought to come to the lawsuit." He boasted, "There is going to be a big lawsuit. I want all of our customers to come to it."

Q. He told you that? A. Yes, sir.

Q. And the customers told you that? A. He told the customers, and I overheard the conversation.

Q. Didn't you say a moment ago that the customers said they didn't want to be involved in a lawsuit? A. That is what they said, but he said to them that there was going to be a big lawsuit and he wanted them to be there.

Q. Didn't the same customers say for their money that they could buy poultry without being watched? A. There may have been remarks to 2294
that effect.

Q. Didn't they say that they objected to being watched there with a man that has a badge on him? A. Some of them do, and some wanted it.

Q. Some wanted you to watch them? A. I won't say they wanted me to watch them.

Q. They didn't mind it? A. No, some didn't mind it.

Q. To some people you were objectionable? A. I wouldn't say I was objectionable.

Q. Your office was objectionable, for what you 2295
stood for? A. I wouldn't say that, sir.

Q. You wouldn't say that, would you? A. No, sir.

Q. Do you remember saying yesterday you went as far as calling a policeman to force your way into the place, is that correct? A. I called two policemen so that I could enter the establishment.

Q. And they wouldn't let you go in? A. They called their superior officer and talked it over, and we decided to withhold my admission until I called my office, which I did.

Q. Didn't you say yesterday that the police officer, the police lieutenant, didn't know his

2296 business when he said, "I can't advise you to go in there"? A. I won't say he didn't know his business, but he didn't know about that. It was so early in the morning that he didn't have time to call the office, so we just dropped it.

Q. He didn't know his business? A. I wouldn't say that, but he did not know how he stood in that regard, at that particular place.

Q. Did you ever hear the expression "One's home is one's castle"? A. I do not believe so.

2297 Q. You do not believe so. You would permit anyone to go into your home, would you? A. No, sir.

The Court: Have we had anything about homes here?

Mr. Heller: This is in effect a home, a man's business.

Q. If a man came into your place of business would you want to know who he was? A. I most certainly would.

Q. And would you want him to show that he
2298 had a warrant or a badge or some authority? A. I would ask for his authority, and proof of it.

Mr. Heller: That is all.

Mr. Rice: That is all, Mr. Alampi.

(Witness excused.)

2299

JACK MUSICAN, called as a witness on behalf of the Government, having been duly sworn, testified as follows:

Mr. Rice: If your Honor please, Mr. Alampi in his testimony referred to a chicken which he had traced to the establishment of Harry Stauber.

Mr. Heller: Let us get the facts correct; he said three.

Mr. Rice: Three chickens which he had traced to the establishment of Harry 2300
Stauber at 1753 Prospect Place, Brooklyn. And he also testified that Dr. Benbrook, of the Health Department, came to Harry Stauber's establishment, and then he condemned one of the chickens. Now, in lieu of calling Dr. Benbrook, counsel has agreed that his official report to the Health Department may be read into the record with certain deletions.

The Court: All right. Suppose then you read into the record what you agree on.

2301

Mr. Heller: That is right. We are saying if the doctor were here he would testify to the same thing that is in this statement.

The Court: I understand. You are willing to stipulate that if the doctor was now called to the witness stand he would testify as follows.

Mr. Heller: That is right.

The Court: That that may be accepted the same as though the testimony were given on the stand.

2302

Mr. Heller: As though he were here, yes, that is correct.

The Court: You both agree on what is to be read. Now read it so that the jury and all of us can hear it.

Mr. Rice: Yes. This document is entitled, "Facts for arrest," or "Food Condemnation Report as to a chicken which was condemned on June 25, 1934, at the establishment of Harry Stauber, 1753 Prospect Place, Brooklyn." The report

2303

is made by William H. Seabrook, Doctor of Veterinary, D.V.M., Doctor of Veterinary Medicine, is that it?

Mr. Heller: I do not know; take it for what it is worth.

Mr. Rice: To the Chief Veterinarian. The report says in part, "I accompanied Inspector Alampi of the United States Code Authority to the above address to inspect dressed poultry, condemned one fowl four and a half pounds. The above

2304

mentioned foods were denatured on premises with C. W. and disposed of as follows: Placed in a refuse can."

Dr. Seabrook's findings in this report are as follows: "I examined approximately 430 pounds of poultry and found same fit for human consumption, with the exception of one chicken four and a half pounds. Reason for condemnation, egg bound septicemia."

If your Honor please, counsel have agreed to one further stipulation, to this effect, that if the proper official from the Health Department were called, he would testify that he has examined the records

2305

of the New York City Health Department and has ascertained that during the months of May, June and July there was no health permit issued to either Joseph Schechter or to the Schechter Live Poultry Market, Inc. to operate a poultry slaughter house or market at 991 Rockaway Avenue, Brooklyn, or at any other address, and that the only health permit issued to operate a poultry slaughter house market at 991 Rockaway Avenue, Brooklyn, is the permit that had been issued to Sam Schechter, and that these permits are not assignable.

2306

Mr. Heller: And that the permit was in full force and effect during the months of May, June and July.

Mr. Rice: Yes, the permit to Sam Schechter.

Mr. Heller: That is right, for 991 Rockaway Avenue.

Mr. Rice: Yes.

Mr. Heller: That is correct.

2307

Direct examination by Mr. Rice:

Q. What is your occupation? A. I am an investigator for the Code Authority, Live Poultry Division.

The Court: You are what?

The Witness: I am an investigator for the Code Authority, Live Poultry Division.

Q. You will have to speak louder. How long have you been an investigator for the Live Poultry Code? A. Since June 4th of this year.

2308 Q. What did you do prior to that time? A. Just prior to that time I was with a statistical organization, downtown New York.

Q. What are your functions as an investigator for the Code Authority? A. I am assigned in the field for the purpose of observing and reporting compliance on the part of the members of the industry with provisions of the Code.

Q. Approximately how many markets have you investigated since June 4, 1934? A. About a hundred and fifty.

2309 Q. About a hundred and fifty? A. Yes, sir.

Q. You visited the market operated by Joseph Schechter and the Schechter Live Poultry Market, Inc., 991 Rockaway Avenue, Brooklyn? A. Yes, sir.

Q. What was the date of that visit? A. My first visit was June 27th.

Q. What did you do on that occasion? A. I had been given five weekly reports that had been sent in unaddressed and unsigned.

Mr. Heller: Speak a little louder.

2310 A. (Continuing.) I said that I had been given five weekly reports that had been sent into our office unaddressed and unsigned. The envelope showed that they had come from 991 Rockaway Avenue, and I brought those two premises, 991 Rockaway Avenue, to be signed, and the address filled in was stipulated.

Q. I hand you five large reports and ask you whether these are the reports which you took to 991 Rockaway Avenue, Brooklyn, on June 27th? A. They are.

Q. What is the nature of these reports?

Mr. Heller: I object to that. They are not in evidence.

The Court: No.

Q. Who gave you these reports? A. Mr. Dale of our office.

Q. Mr. Dale, the associate counsel of the Code Authority? A. Yes, sir.

Q. What were your instructions? A. To have these reports signed and the address filled in where specified.

Q. Did you follow that instruction? A. Yes, 2312
sir.

Q. Who signed these five reports? A. Joseph Schechter.

The Court: Did you see him sign them?

The Witness: Yes, sir.

Q. One of these reports is dated May 25, 1934; the next one, June 1, 1934; next one, June 8th; next one, June 15th, and the next one, June 22, 1934? A. Yes, sir.

Q. You are sure that these are the reports 2313
that you took to Joseph Schechter's slaughter house market? A. Yes, sir.

Q. Did you have aybody sign them? A. Joseph Schechter signed them in my presence, and Irving Musig, the bookkeeper, who told me he had made these reports at the instance of Joseph Schechter, filled in the address where it was necessary on each of the reports also in my presence.

Q. Did he make that statement in the presence of Joseph Schechter? A. Yes, sir.

Q. Did Joseph Schechter look at the reports as he signed them? A. Yes, sir.

2314 Q. Did he examine the reports? A. Yes, sir.

Q. Will you look at the reverse side of those reports and see whether or not Joseph Schechter's signature is there? A. Yes, sir.

Q. You saw him affix all of these signatures? A. Yes, sir.

Mr. Rice: I offer these reports in evidence.

Mr. Heller: May I know for what purpose? He is not being charged with non-

2315 compliance with reference to reports.

Mr. Rice: Yes, your Honor.

Mr. Heller: Not he.

Mr. Rice: Yes. In the first count, charging conspiracy, all of these defendants are charged with conspiracy to file fictitious and false reports.

Mr. Heller: The conspiracy charge and all the other charges; at 858 East 52nd Street, is the one they failed to file; then those that they did file, they claim were wrong. As far as Joseph Schechter and

2316 his corporation, there is nothing said.

The Court: Wait a minute. Let us see about that.

Mr. Rice: If your Honor please, it is quite immaterial whether the overt act—

Mr. Heller: I withdraw my objection. I have no objection to them going in.

The Court: Wait a minute. Let us get it straight.

Mr. Heller: You will find that I am correct, but I will consent that they go in.

The Court: Look at subdivision E on page 8.

Mr. Rice: That is it exactly.

Mr. Heller: Subdivision E?

The Court: Subdivision E on page 8, with reference to everybody that is in the conspiracy count.

Mr. Rice: And, of course, your Honor, it is immaterial that this is not one of the overt acts mentioned in the conspiracy count.

Mr. Heller: I haven't any objection anyway, so it can go in.

The Court: All right, received without objection. 2318

(Marked Government's Exhibit 29 in evidence.)

The Court: That does not relate to any substantive charge?

Mr. Heller: It does not. That is why I raised the objection.

The Court: Relates to the conspiracy only.

Q. Did you have any conversation with Joseph Schechter other than you have stated on that day? A. Not very much on June 27th. 2319

Q. What did you do after you got his signature on June 27th? A. I remained on the premises just a few moments because I had some other assignments that morning.

Q. You went to others slaughter house markets? A. Yes.

Q. On the following day where did you go? A. The following day——

Q. The following day is June 28, 1934. Do you recall the day of the week? A. That was Thursday.

Q. Thursday? A. Yes, sir.

Q. Where did you go on Thursday, June 28th? A. I was assigned to the slaughter house of the

2320 Schechter Live Poultry Market, Inc. and arrived there at 5 o'clock Thursday morning.

Q. Did you also go to the A. L. A. Schechter Poultry Corporation, 858 East 52nd Street? A. Yes, later in the day.

Q. Later in the day? A. Yes.

Q. Then tell us what you did on June 28th at 991 Rockaway Avenue? A. I observed the killing and the method of doing business at that slaughter house. At that time we were trying to get compliance——

2321 Mr. Heller: I object to what he intended to do.

The Court: Yes.

Q. Just tell us what you did and what you saw and what you heard. A. I found that the business as transacted at 991 Rockaway Avenue was not in compliance——

Mr. Heller: I object to that and move to strike it out.

2322 The Court: Yes. Won't you please stop stating conclusions and state the facts?

The Witness: I see.

A. (Continuing.) The method of killing at 991 Rockaway Avenue was as follows——

Q. Just a minute, Mr. Musican. You are not permitted to testify as to your conclusions. A. Yes.

Q. That they were violating any provision of the Code. Just tell us what you saw, just the facts. A. Can I say the method of killing?

Q. No, not the method of killing. A. I see.

Q. Just tell us what you saw. A. Business was transacted in the following manner——

Q. Who was there? A. Joseph Schechter was on the premises when a customer came in to purchase poultry. Joseph Schechter and that customer made arrangements as to prices and details of quality and quantity. Max Ginsberg, an employee, was the man who drew the birds from the coop and handed the birds to the customer. The customer in each case examines every individual bird. If he accepted the bird, he handed it to the shochet, a shochet by the name of Hyman Cohen. If he rejected the bird, he 2324
handed it back to Max Ginsberg, who put it in that coop that was open and nearby, and which served for the purpose of putting in these rejected birds.

Q. Did you observe any particular transactions on that day? A. I observed two particular transactions that day.

Q. Will you describe them fully? A. The first one took place at about 7:30.

Q. In the morning? A. That morning. Three men came into the slaughter house, represented themselves as employees of Jack Kleinman, a man who operates several chicken stores—— 2325

Mr. Heller: I object to this as our statement, and I move to strike it out.

Mr. Rice: It is merely to identify the customer.

The Court: He is going along, making a lot of statements. I do not hear him at all. Speak a little louder so I can hear you. What was that answer?

(Reporter repeated last answer.)

A. (Continued.) In Brooklyn.

Mr. Heller: I move to strike that out.

2326 *Jack Musican By Govt. Direct*

Q. Was Jack Kleinman himself there?

Mr. Heller: I object, your Honor.

The Court: Unless he knows it. They represented themselves as employees of a certain man he says.

Mr. Rice: It is quite immaterial to us, your Honor, who they were, we are simply identifying the customer for the sake of the defendants.

The Court: But he said the man operated a lot of stores and we are not interested in that unless he knows of his own knowledge. You can strike that out.

2327

Q. Now who came in there? A. Three men came in there. Their order was charged to Jack Kleinman of 1507 Kings Highway.

Q. In your presence? A. Yes, and in the presence of Joseph Schechter, and Max Ginsberg drew from one of the coops from two of the coops, 241½ pounds of colored fowl. The price charged was 18 cents. There was about 50 odd birds accepted and there were 15 birds rejected, which were placed back in one of the empty coops, but 2 of the rejected birds were placed in a spindle basket by a fellow known to me only as Harry, who was helping about the place that morning.

2328

Q. Now you say that chickens were drawn from two coops and the customer received about 45 chickens? A. No, 50 odd.

Q. He rejected 15? A. Yes.

Q. And did you observe the condition of the 15? A. The 15 chickens as far as I could see from where I was standing were all right.

2329

Q. You say 2 of the 15 were placed in a spindle basket? A. Yes, they were re-examined and placed in a spindle basket by a fellow known to me as Harry.

Q. And did you observe the condition of those 2? A. One I did particularly.

Q. And what was its condition? A. I did look at one and it looked sickly, and the comb was very discolored.

Mr. Heller: I object to what it looked like. Let him describe it. 2330

Q. You are not a poultry expert, are you? A. No.

Mr. Heller: I object to his characterization then if he is not an expert.

Q. You never had any experience in the poultry line prior to June 4th? A. No, sir.

Q. Now will you describe what the one chicken looked like? A. The one chicken seemed to me to be very sickly——

The Court (to witness): No, not what it seemed, tell us what you saw. 2331

The Witness: It was a colored fowl, deep red, and the neck was very thin and the comb was very much discolored.

Q. Was he fat? A. The bird weighed about five pounds.

Q. Do you know what happened to the 15 rejected chickens? A. They were later sold to Mr. Kleinman himself at about 10 o'clock in the morning.

Q. All of them? A. All of them—13, I beg your pardon, because 2 had been placed in the spindle market.

2332 Q. That is Jack Kleinman or his representatives came back for a second purchase of chickens, and Kleinman himself returned? A. Yes, sir, Kleinman himself returned at ten o'clock.

Q. Now how many chickens did he buy then? A. At that time he bought 379 pounds, about something over 100 chickens.

Q. Taken from how many coops? A. About from 2½ coops.

2333 Q. Did he receive all of them? A. No, these birds had been rejected previously by his representatives and by other customers who had purchased during the morning, they were known as broken fowl. It was from these coops of broken fowl that the 379 pounds were purchased by Jack Kleinman. He accepted over 100 pounds—105 I think and he rejected 24 of these birds.

Q. Did you observe the condition of the 24 he rejected? A. To my knowledge they were all right.

Q. Do you know what happened to the 24 rejected birds? A. No, sir, I do not.

2334 Q. Now when he came back the second time to make a purchase, you say he took with him about 105 birds? A. Yes.

Q. Included among them were 13 of the birds that had been rejected the first time? A. Yes.

The Court: Did he reject them or his representatives the first time?

The Witness: His representatives had rejected them the first time.

Q. Now do you know whether or not separate charge slips were made out for the two purchases? A. Separate charge slips were made out for the two purchases, yes, sir.

2335

Q. And was Joseph Schechter present on both of these occasions? A. Yes.

Q. All of the time? A. That's right.

Q. And did he see what was going on? A. Yes.

Q. And did he make any protest against the rejection of the birds? A. Not in that particular case.

Q. Not in that particular case? A. No, sir. The price incidentally was 16 cents, 2 cents lower than the original purchase.

2336

Q. We are not interested in the price at this time. Now did you observe any other instances where customers were permitted to reject chickens at No. 991 Rockaway Avenue? A. Yes, sir, but I did not make any tally.

Q. Oh, on that particular day? A. Except for the two mentioned here I did not make any other tallies.

Q. You just recorded these two particular transactions? A. Yes.

Q. But you saw other instances? A. Many others.

2337

Q. Other instances of the same kind?

Mr. Heller: I object to that, your Honor.

Mr. Rice: I withdraw the question.

Q. You saw other occasions when the customer rejected birds?

Mr. Heller: I still object, your Honor, the question is leading.

Mr. Rice: Very well, I will withdraw the question.

2338 *Jack Maxwell By Govt. Direct*

Q. Tell us what else you saw on that particular day. A. In every case the procedure is the same. The employee takes the poultry out of a coop and hands it to the customer and the customer examines the bird and if he approves it he hands it to the shochet and if not he hands it back to the employee and that bird is a rejected bird.

Q. And these transactions were all in the presence of Joseph Schechter? A. Yes.

Q. Now did you record any transactions of this character on the following day?

2339 Mr. Heller: I object to that, your Honor. We are being charged here with two offenses as I understand it from the indictment straight killing. We certainly should not go into any others, we are not charged with others.

Mr. Rice: Oh, yes you are, you are charged with it in the conspiracy.

Mr. Heller: The substantive counts are two occasions, your Honor.

The Court: Of course it makes it hard
2340 for the jury and for me to follow, if our attention is not directed as to what charge the testimony covers, but nevertheless they are not limited to the overt act.

Mr. Rice: I wish to state for your Honor's benefit and counsel's benefit that the transaction as to Jack Kleinman is charged in Count 27.

The Court: I just located it after much difficulty.

Mr. Rice: Also as to part of Count 1, your Honor, the conspiracy count.

The Court: Certainly.

Q. Now on the following day, Friday, June

28th, did you observe any transactions at No. 991 Rockaway Avenue? A. Yes, sir.

Q. Now what particular transaction? A. A transaction of about 320 pounds of colored fowl, the customer in this transaction was also Jack Kleinman. A number of birds were accepted, 76 I believe and the number of birds rejected were about 10.

Q. Now what happened to the rejected birds? A. The rejected birds, 3 were placed in a spindle basket and 7 were returned to one of the coops. Max Ginsberg, later in the day, re examined these 2342 birds and found 2 very bad ones which he killed them off himself.

Q. And the rest of them? A. The rest of them I do not know their disposition.

Q. Was Joe Schechter there at the time that Jack Kleinman made the purchase? A. Yes.

Q. And at the time that he rejected some of the birds? A. Yes.

Q. Now, on July 2nd, that is a Monday, is it? A. Yes.

Q. You were there again? A. Yes.

Q. Did you observe any transactions between 2343 Joseph Schechter and customers? A. Max and Irving Gold, two brothers, came in and purchased about 170 pounds between them. One brother purchased 95 pounds, Max Gold, he accepted about 20 birds and rejected about 12. The other brother purchased 75 pounds, rejected about 8 birds and accepted—rejected about 8 birds and accepted about 16.

Q. Joseph Schechter was there during that entire time? A. Joseph Schechter was there. At one time during that purchase Joseph Schechter attempted to argue with Max Gold regarding several rejected birds.

2344 *Jack Marcus—By Govt. Direct*

Q. And then what happened? A. Max Gold won his point.

Q. Just what happened? A. Max Gold said that

Q. Max Gold rejected the birds? A. Max Gold rejected the birds, and when Joseph Schechter argued with him about the condition of the birds he said that he could not use them, and he turned them back.

Q. Did you ever see Joseph Schechter argue on this point at any other time? A. Not that I
2345 recall.

Q. This was the only case that you have mentioned? A. Yes, sir.

Q. Was there ever anything said by either the customer or Joseph Schechter as to the unfitness of the birds for human consumption, the birds which were rejected? A. No, sir.

Mr. Heller: I object to the form of the question, asking for a conclusion.

Mr. Rice: I am asking whether anything was said.

2346 Mr. Heller: You didn't say that.

The Court: Let him tell all that he heard, and then we can determine.

Q. Have you told us everything that you heard on these occasions? A. On Thursday morning about——

The Court: That was when?

The Witness: Thursday morning, the 28th.

The Court: Yes.

The Witness: By seven o'clock I telephoned to investigator—about seven o'clock I telephoned to Investigator Lenhardt who was at a nearby establishment

to come over there and assist me in regards to my assignment. He arrived about an hour later. When he came to the premises he and I were standing near the spindle basket that I mentioned earlier, which at that time contained some birds. I asked him to look at those birds

Q. You asked Leonhardt to look at the birds? A. At those birds.

Q. Who was present? A. Joseph Schechter was in the slaughter house at the time. 2348

The Court: I know, but was he there where you were?

The Witness: Not the particular spot where I was.

The Court: All right.

Q. Was he there later? A. Just a minute, I am sorry

The Court: Do not give us the conversation if he wasn't present, give us any facts that you observed. 2349

Q. Was Joseph Schechter there later? A. Yes, sir.

Q. All right, what happened when Joseph Schechter was present? A. Joseph Schechter came over to where we were talking, Leonhardt and I were talking, and he pointed to the spindle basket and he told us that the birds in the spindle basket were very poor quality and he would sell them later to poor people at 10 cents a pound.

Q. Did he say what kind of people he would sell them to? A. I think he mentioned poor people.

2350 Q. Did you observe the birds in the spindle basket? A. Yes.

Q. Did you consider them as a layman fit for human consumption?

The Court: He is not an expert, he said so.

Q. Will you describe the birds that you saw? A. With my knowledge of poultry I could not very well describe them.

2351 Q. Did Joseph Schechter say anything else? A. Not up to the time of July 2nd, that we covered.

Q. Did he say anything about the quality of the birds? A. Not in descriptive terms, just poor quality birds.

Q. Do you know whether any inspector from the Health Department was there later in the day? A. Well, at about a quarter of eleven Mr. Forsmith of our office and Dr. Gardner of the Department of Health arrived on the premises. In making an examination of the premises they

2352 came upon——

Mr. Heller: Who was present at that time and place when this occurred?

The Witness: I was present.

Mr. Heller: How about the defendants?

The Witness: Joseph Schechter, yes, Joseph Schechter was present.

Q. Mr. Forsmith and Dr. Gardner of the Health Department arrived? A. And made an inspection of the premises.

Q. How long after Joseph Schechter had made the statement to the effect that these poor quality birds were to sold at 10 cents a pound to poor

people did they arrive? A. A good two hours after.

Q. Two hours later? A. Yes, sir.

Q. What happened? A. In the course of their examination Dr. Gardner and Mr. Forsmith came upon this spindle basket. Dr. Gardner did not like the looks of the birds, he took them out for a detailed examination. Two birds he said were O. K. and he had them put back in one of the coops. Seven birds he asked them to kill off, and after a careful examination condemned 2354
six of those birds as unfit for human consumption.

Q. Are you sure that these six birds that Dr. Gardner condemned as unfit for human consumption were the birds that Joseph Schechter said he was going to sell to poor people? A. Yes, sir.

Q. You are positive of that? A. Yes, sir.

Q. No mistake as to the identity of those birds? A. No, sir.

Q. What happened after that? A. Well, that is all I covered until July 2nd.

Q. On that same day, June 28th, yes, June 2355
28th, that is a Thursday? A. That is right.

Q. On that same day did you go to any other market? A. I went to the A. L. A. Schechter Corporation slaughter house at 858 East 52nd Street.

Q. What did you do there? A. I had in my possession seven reports, weekly reports that had been mailed in to our office which were unsigned and unaddressed.

Q. I hand you seven reports designating the name A. L. A. Schechter Live Poultry Corporation, 858 East 52nd Street, Brooklyn, the first one being dated April 30th, 1934, the second one May 7th, 1934, the third one——

Mr. Heller: Will you pardon me for a moment? If those are our signatures we will concede them.

Mr. Rice: Just a minute, I would like to have these identified for the record. The third one dated May 13, 1934, the fourth one dated May 21, 1934, the fifth one May 28th, 1934, the sixth one June 4th, 1934, and the seventh one June 11, 1934.

2357 Q. Are these the reports that you brought with you?

Mr. Rice: That relates to the 38th count, your Honor.

The Court: Yes.

A. Yes, sir.

Q. And what did you do with these reports after you got there? A. I asked for an officer of the corporation. One of the employees pointed out Mr. Meyer Schechter. I asked him if he were Meyer Schechter, and if he were an officer of the corporation, and he said he was.

2358 Q. Did you ask him whether he was Meyer Schechter? A. Yes, sir.

Q. Did he sign these reports in your presence? A. We went into the office and he signed the reports, signing them as Louis Schechter.

Q. Meyer Schechter signed these reports as Louis Schechter? A. Yes, sir.

Q. Are you sure of that? A. Yes, sir.

Q. Was somebody else present? A. Not in the office.

Q. Not at that time? A. No, sir.

Q. Where did you get these reports which you brought over there? A. Mr. Dale of our office, counsel for the Code Authority, had given

them to me, to have them signed and the address inserted.

Mr. Rice: I offer them in evidence.

Mr. Heller: No objection.

The Court: Received.

(Marked Government's Exhibit 30 in evidence.)

The Court: Who is Meyer Schechter, is he here?

Mr. Rice: Meyer Schechter——

The Court: Wait a minute, I am asking the witness. Who is Meyer Schechter, is he here? 2360

The Witness: Yes, sir.

The Court: Point him out.

The Witness: He is the gentleman in the light suit sitting third from the left on the left-hand side of the table.

The Court: That is the defendant Martin Schechter?

The Witness: He was known to me as Meyer Schechter all the time.

The Court: That is the defendant Martin Schechter? 2361

Mr. Heller: Yes.

The Court: I do not want to interrupt, but I wanted him to be identified.

Mr. Rice: Yes, I am very grateful.

Q. What is the next time that you visited the establishment after June 29th, Friday? A. July 2nd.

Q. You have already told us about that? A. Yes, sir.

Q. Then when is the next time after July 2nd? A. It was the morning of July 3rd.

Q. The following day? A. Yes, sir.

Q. Where did you go? A. I went to 991 Rockaway Avenue premises.

Q. What happened there? A. I arrived there about 8 o'clock——

Mr. Rice: This, your Honor, relates to Count 37.

The Court: Yes, thank you.

Mr. Rice: Page 43.

2363 A. (Continuing.) I arrived there about 8 o'clock. I met a different Joe Schechter, he was angry, and immediately——

Q. You mean you met the same defendant, Joseph Schechter? A. But he acted entirely different than he had acted toward me on the occasion of my previous visit.

Q. Just tell us what happened there. A. He was angry, and immediately I came into the slaughter house he said, "What are you doing here?" I told him it was my regular assignment for that morning.

2364 Q. Tell us just what he said and the way he said it, using as nearly as possible the words that he used. A. He said to me, "On account of you and your bunch, I have lost several of my best accounts." He says, "What are you watching for? If you are watching for straight killing, I don't kill straight."

Q. Just one moment. He said, "If you are watching for straight killing, I don't kill straight"? A. "If you are watching for straight killing, I don't kill straight."

Mr. Heller: Counsel knows what he said. Why repeat and try to emphasize the witness' answer?

Q. Go ahead.

Mr. Heller: That is not fair.

The Court: No; let him answer the questions.

Q. Go ahead, give the whole conversation. A. And then he said that we were all a lot of squealers; if the matter ever came up into court, he would show us up. He told me that he preferred that I don't stay on the premises, that I take a walk for myself; if I don't take a walk for my- 2366
self, he would put me out. If he could not put me out himself, he would get somebody to put me out. I asked him if he would put those accusations in writing, and his statement regarding straight killing in writing.

Q. What did he say? A. And he said no. And he says—he repeated again, "Take a walk for yourself," in a very threatening tone, so I walked out of the premises.

Mr. Heller: I move to strike out the words "threatening tone."

The Court: Yes, strike it out. 2367

Q. What did he say? Just tell us what he said. A. He said, "Take a walk for yourself," and I walked out of the premises and sat down in his own car that was parked right in front of the slaughter house, and a few minutes later he came out and joined me. He was considerably cooled off by that time. And he told me that he had had difficulty, had had a difficult time getting those particular accounts he had mentioned away from a competitor—from a competitor of his, and now he had lost those accounts back to that same competitor. He told me he had written a complaint to Washington and that

2368 *Jack Musican By Govt. Direct*

he had spoken to one of the Department of Agriculture men. He told me that he would welcome a case coming up in court, and that he was keeping back one week's money that was due the commission men from whom he had purchased poultry

Q. Just a moment. What was that last part? A. He told me that he was saying

Mr. Heller: Speak up. We cannot hear you.

2369 Q. Speak louder. A. He told me that he was keeping back one week's money that was due the commission men from whom he purchased poultry.

Q. That is Joe Schechter? A. Joe Schechter in the automobile, as I am sitting there with him, and that he was prepared to use that money in the event it was necessary to fight us in court.

Q. You are sure that he told you that? A. Yes, sir.

Q. Did he say anything else about fighting a case? A. Not particularly, sir.

2370 Q. Tell us everything that was said. A. I don't recall anything additional at the time.

Q. Did anything else happen? A. I cannot recall anything else.

Q. Going back to this occasion on June 28th—— A. Yes, sir.

Q. (Continuing.)—Thursday, when Benjamin Forsmith and Dr. Gardner came to Joe Schechter's place, was anything said about disinfecting the chickens after they had been condemned? A. Joseph Schechter refused to disinfect the birds.

Q. What did he say? A. He said that if the birds were disinfected he could not return them

to the source to the purchaser and get credit for them.

Q. Were they finally disinfected? A. Not in my presence, but when I arrived at the premises several hours later they were disinfected.

Q. I hand you a statement which bears a signature reading Joseph Schechter, President of Schechter Live Poultry Market, and ask you whether you have seen that paper before? A. Yes, sir.

Q. Who wrote the body of that? A. I did. 2372

Q. Who signed it? A. Joseph Schechter, as President of the Schechter Live Poultry Market, Inc.

Q. In your presence? A. Yes, sir.

Q. On what day? A. On June 27th. I dated this June 26th in error.

Q. In error? A. Yes.

Q. But it was actually signed on A. June 27th.

Q. A Wednesday? A. Wednesday morning, June 27th, on the occasion of the signing of the other reports.

2373

Mr. Rice: I offer this in evidence.

Mr. Heller: No objection.

(Marked Government's Exhibit 31 in evidence.)

Mr. Heller: Let the jury see this.

The Court: We will take a five minute recess. Gentlemen of the jury, do not let anybody talk to you about the case.

Cross examination by Mr. Heller:

Q. Mr. Musican, you came into the employ of the Code Authority on June 4th? A. Yes.

Q. Prior to that time what was your business? A. I was working for the statistical organization.

Q. What was the nature of business? A. Stock Exchange.

Q. Prior to that time what was your business? A. I was in the real estate business.

Q. Have you ever been in the lumber business? A. Yes.

Q. You never had any chicken experience? A. No, sir.

Q. Prior to this time? A. No, sir.

Q. What is your pay, sir? A. Thirty five dollars a week.

2375 Q. For doing investigating work? A. Yes, sir.

Q. For the Code Authority, for the chicken business? A. Yes, sir.

Q. Under the jurisdiction of whom? Who is your immediate superior? A. William Wright.

Q. Who? A. William Wright.

Q. You take your orders from him? A. Yes, sir.

Q. He is the chief investigator? A. Yes, sir.

Q. The first time you came to 991 Rockaway Avenue was when? A. On a Wednesday morning.

2376 Q. June what? A. June 27th.

Q. That was for the purpose of having the reports signed? A. Yes, sir.

Q. You had no difficulty in getting them signed, did you? A. No, sir.

Q. He signed them immediately? A. After I explained that they wanted them signed and the addresses put in.

Q. And he signed them? A. Yes, sir.

Q. Put the addresses in there? A. Yes, sir.

Q. Gave them to you and you brought them back to your firm? A. Yes, sir.

Q. You observed conditions as they existed on that day, is that correct? A. Not particularly.

Q. And you came back the next day? A. Yes, sir.

Q. Did I understand you to say you visited about 150 slaughter houses since your employment? A. Yes, sir.

Q. Can you mention a few of the names and addresses of firms in the vicinity of Schechter Brothers? A. Yes, sir.

Q. Will you list them, please? A. There is Meyer Oster on Rockaway Avenue; there is Abraham Frenzel, known now as Frenzel & Company, Inc., on Thatford Avenue; there is Abraham Perelman on Thatford Avenue; there is Johnny Block on Stone Avenue; the New Lots Live Poultry Market on Junior Street; Lena Koslow on Junior Street; David Hirsch on Powell Street; Morris Hillman on Powell Street. 2378

Q. That is all right. Now, you say in all those places you went to the method of slaughtering chickens is different than at 991 Rockaway Avenue? A. At all? 2379

Q. Yes. A. Yes, sir.

Q. At one place did the customer select chickens? A. I do not understand your question then in the first place; I meant that all were different.

Q. You found in other places that the butchers selected their chickens? A. There were other places that I visited where the butchers selected the chickens.

Q. Quite a number of them? A. Not many of them.

Q. In your limited investigation? A. In certain sections of the city.

Q. Butchers would come in—— A. Yes, sir.

2380 *Jack Maxicum By Govt. Cross*

Q. And pick their chickens? A. Yes, sir.
Q. Reject some? A. Yes, sir.
Q. Slaughter the rest? A. Yes, sir.

Mr. Rice: If your Honor please, I do not see how it is material to inquire into the fact as to whether others were also violating the Code. Perhaps there were some others violating at times.

Mr. Heller: On the question of whether the regulation is a reasonable one.

2381 The Court: I do not see how it is material.

Mr. Heller: I understood your Honor held it is not a question of law, it is a matter of fact that arises here.

The Court: I cannot agree with you. The matter of fact is whether something is merely incidental, or whether it is something that is substantial that interfered with interstate commerce; that is what I said, mere incidental things ——

Mr. Heller: But as I recall, in part of

2382 your opinion your Honor has stated that you cannot determine as a matter of law whether the regulation is reasonable or unreasonable; that is a fact.

The Court: I do not think I said that.

Mr. Rice: If your Honor please, I object further on the ground that this is not proper cross examination.

The Court: No; he is making him his own witness. But however, that other people may have violated the law, is not proof and it is not proof that it is reasonable or unreasonable. That may be met by expert testimony, I do not know.

Mr. Heller: All right.

The Court: But you are making him your own witness.

Mr. Heller: I am satisfied to be bound by the answers.

The Court: Yes, you will be bound. But it isn't a question of whether other people were violating the law or not; that isn't the question.

Mr. Heller: All right.

Q. Your second visit was on June 28, 1934? A. Yes, sir. 2384

Q. 5 A. M. in the morning? A. That is right.

Q. You observed conditions on that day, is that right? A. Yes, sir.

Q. You made a memorandum of what transpired? A. Just notes.

Q. You did make notes, did you not? A. Yes, sir.

Q. When did you look at your notes since that time? A. I do not understand that question.

Q. Did you ever look at your notes since June 28th before you testified here today? A. Yes, sir. 2385

Q. When was the last time that you looked at your notes? A. Yesterday.

Q. You refreshed your memory yesterday? A. Yes, sir.

Q. Memorized dates? A. The dates I had fixed.

Q. Memorized the number of chickens that were sold and rejected? A. That is right.

Q. Memorized the poundage? A. It wasn't a question of memorizing, it was a question of refreshing my memory as to the figures.

Q. Memorized the prices? A. Yes, sir.

2386 Q. Now, when Jack Kleinman's employees came in to purchase, I understood you to say that 13 chickens were rejected that were good, healthy for human consumption, and two were thrown in a separate little basket, spindle basket? A. I said 13 birds were rejected, and to the best of my knowledge they were O. K.

Q. As far as you know? A. Yes.

Q. You have no experience? A. No; I didn't even examine the birds.

2387 Q. Right. In other words, the butcher didn't want to take those 13 chickens? A. Yes.

Q. They were replaced in the coop? A. Yes.

Q. And those same chickens were resold to the same man in the afternoon? A. Yes, sir.

Q. Is that correct? A. Yes, sir.

Q. And two chickens that were rejected, the working man of Mr. Schechter placed in a spindle basket at one side? A. That is right.

Q. And that accumulated to 9 chickens; didn't you say that? A. Yes.

Q. And you are definitely sure that Mr. Schechter told you that he meant to sell them to

2388 poor people? A. Yes.

Q. And in the next breath he said he would rather take them down and return them to the commission merchant so he would get credit? A. Not at that time.

Q. A little later? A. That was after the birds had been condemned by Dr. Gardner, that he made that assertion.

Q. Didn't he say he did not want them to denature them? A. He did not want them to denature them, he would rather take them back, and he could not do it if they were disinfected.

Q. Because he wanted to get credit? A. Yes, sir, that is what he said.

Q. That was two hours after he told you he meant to sell them to poor trade? A. Yes.

Q. Now, while you were there were they sold to the poor trade? A. No.

Q. Did anybody come in except the wholesale buyers to buy chickens? A. No.

Q. You didn't see them offer them for sale to poor persons, did you? A. No, but there was an employee who had told me during the morning the same thing.

Q. An employee? A. Yes.

2390

Q. He told you the same thing? A. Yes.

Q. That he meant to sell them to the poor trade? A. No; that the birds were very, very bad; that they would be sold at a lesser price to poor people.

Q. To a poor person? A. Yes.

Q. You did not know whether they were very, very bad or very, very good? A. I am merely stating——

Q. Something he told you? A. A statement given me.

Q. Is that correct? A. Yes.

2391

Q. But you did not see an actual sale, did you? A. No.

Q. You did not see him offer them to any one? A. No, sir.

Q. You did not see anyone offer 8 cents per pound for those chickens? A. No.

Q. You were permitted to do all you wanted to do that day, were you not? A. Yes.

Q. On the following day you came there? A. Yes.

Q. Right up to the time when Joe Schechter was a changed Joe Schechter? A. Until July 3rd.

2392 *Jack Musican—By Govt.—Cross*

Mr. Rice: Speak up, Mr. Musican. We cannot hear you.

The Witness: I am sorry. Until July 3rd I was there——

Q. You were welcome? A. I don't—I cannot say I was welcome, but I was not abused.

Q. Or molested? A. Or molested.

Q. You could do anything you wanted; he permitted you to examine the books? A. I did not ask for the examination of any of the books.

2393 There was a question sometimes of the charge ticket, that I was permitted to look at.

Q. He allowed you to look at the charge ticket? A. Yes.

Q. And let you make a record of it? A. Yes.

Q. He even signed a paper that you gave him, Government's Exhibit 31? A. He gave me the facts, I wrote them down, and he signed them.

Q. Who gave you the facts? A. I wrote them down and he signed it.

Q. He took your word for what you put down there? A. No.

2394 Q. You asked him to read it? A. Irving Metenik, the bookkeeper, read the statement that I had written and then handed it to Joe Schechter and he signed it.

Q. He gladly signed it? A. He signed it.

Q. And he gave it to you? A. Yes.

Q. Isn't it a fact that on several of the occasions Joe Schechter was sitting in the car when you spoke to him? A. Only the specific one I mentioned.

Q. Do you know whether he carried crutches with him at that time? A. No.

Q. You know that? A. He did not carry crutches.

Q. And he walked on his own momentum? A. He walked on his own.

Q. He had no stick with him? A. No.

Q. You are sure about that? A. Yes.

Q. On July 3rd when he said, "I am losing customers," did he show you any books as to what business he did? A. No, sir.

Q. Did he show you figures, showing whether or not he lost business? A. No.

Q. Did not? A. No, sir.

Q. Did you at any time tell him that "all you 2396
have to do is to pay your assessment and we will take all the inspectors away from here"? Did you make that statement? A. No, sir.

Q. Anything to that effect? A. No, sir.

Q. Did you write on a piece of paper any figures to tell him what his assessments are when you made that statement? A. No, sir.

Q. I show you this paper and ask you whether this is in your handwriting? A. Yes, sir.

Mr. Heller: I offer it in evidence.

Mr. Rice: No objection.

The Court: Received. 2397

(Marked Defendants' Exhibit F in evidence.)

Mr. Rice: Will you let the jury see that, Mr. Heller?

Mr. Heller: Oh, yes, that is what we want to do, certainly.

Q. When you said you made no writing, you were in error, is that correct? A. I misunderstood your question.

Q. You did not understand what I was saying? A. As to whether I had mentioned the matter of paying assessments and computed amount that he had to pay, I misunderstood the question.

Q. Where did you get these figures? A. These figures are copied from the reports that he had already sent in.

Q. You made the copy? A. Sir?

Q. You copied it yourself? A. At the time I believe that he gave me those—that he signed the reports for me, he asked me how much he would have to pay on those reports, if he mailed a check for them, and I computed those figures for him on the basis——

2399 Q. Right there and then? A. I think so. I am pretty sure.

Q. Didn't you say on direct examination all you came for was to get the paper signed, explained they were unsigned? A. Yes.

Q. That you then went away? A. Yes.

Q. That is all the business you had there? A. Yes.

Q. That is correct, isn't it? A. Yes.

Q. You had forgotten about this incident entirely? A. I did not come to ask him for a check, sir, or for any money.

2400 Q. You made that out at his suggestion? A. He asked me——

Q. At his request? A. (Continuing)—how much he would have to pay if he sent a check in for that report and I computed from the reports the amount he would have to pay.

Q. Is that your work? A. Sir?

Q. Do you do that kind of work? A. Yes.

Q. In the office? A. In the field and in the office.

Q. Does the office send out statements? A. Regarding the amount due?

Q. Yes. A. We cannot, because they are computed from the report sent in to the office.

Q. If the reports are filed, does the office send out statements? A. The report is generally accompanied by a check.

Q. The customer makes it out himself? A. Yes.

Q. He computes it by himself? A. Yes.

Q. And then he sends in a check? A. With the report.

Q. In this instance he did not know what was due? A. I cannot say whether he knew or not. He merely asked me to compute the amount due on the reports that he had signed for me. 2402

Q. Then no conversation took place with reference to the fact that the inspectors would be taken away, he would not be arrested as long as he would pay this amount? A. No, sir.

Q. No such conversation? A. No such conversation.

Q. You are sure about that? A. Yes.

Q. On July 1, when you said he was a changed man, you said you went into his car. A. July 3rd.

Q. You went into his automobile? A. Yes, sir. 2403

Q. Sat right down in it? A. Yes.

Q. Did not keep you off from his automobile, did he? A. No, sir.

Q. Did not ask him whether you could go and sit in it, did you? A. No.

Q. It was not your property, was it? A. No.

Q. You still thought he was a good fellow, didn't you? A. I cannot answer that very well, as to what my thoughts were.

Q. Do you remember any occasion which—do you remember an occasion when you called at one of the butcher stores and asked him for a statement? A. No, sir.

2404 Q. Never went to any butcher? A. No, sir.

Q. Poultry dealer? A. Yes, sir.

Q. Did you ask him something about Mr. Schechter? A. No, sir.

Q. Not a word about him? A. Not a word about him.

Q. Anything in connection with his business? A. No, sir.

Q. Sure about that? A. Positive.

Q. Do you know a Mr. Rabinowitz, New Lots Avenue? A. No, sir.

2405 Q. You do not know the man? A. No, sir.

Q. You do not know the man? A. No, sir.

Q. Is the address familiar to you, 510 New Lots Avenue? A. No, sir.

Q. Did you ever go to 9002 Church Avenue? A. Yes, sir.

Q. Did you ask him to teach you something about the business? A. Never spoke to anybody there, just passed by the premises.

Q. That was a retail butcher shop? A. From the outside it looked like a butcher shop.

Q. You knew he was buying from Mr. Schechter? A. This was the man I know to be Harry, whom I testified about previously. They told me he was a butcher at 9002 Church Avenue.

2406 Q. Who told you that? A. He himself and Max Ginsberg.

Q. They told you that themselves? A. Yes.

Q. That he was a butcher they sold to? A. He was not purchasing that morning that I was there.

Q. Some other morning? A. That was the only morning that I encountered him, on June 28th, Thursday morning. I never saw the man since.

Q. You did encounter A. Harry, this butcher.

Q. At whose premises? A. At Schechters' place, 991 Hackaway Avenue.

Q. Never went to his place and asked him for an affidavit? A. I never. I just passed the place in my automobile on the occasion of going to the A. L. A. Schechter Corporation, the same day.

Q. You just passed through Church Avenue? A. Just passed through Church Avenue.

Q. Went in that direction? A. Went in that 2408
direction towards A. L. A. Schechter Corporation.

Q. Now, you said that you knew Schechter as Abe Schechter and that he signed his name as Louis Schechter? A. Meyer Schechter; he signed his name as Louis Schechter.

Q. Did you ask him why he did that? A. His story was something to the effect that his grandfather's name was Meyer, and he had been named, according to the Jewish faith, after his grandfather, and people who knew his grandfather called him Meyer.

Q. And you were satisfied with that explana- 2409
tion? A. The explanation was incidental to the signing of the paper.

Q. He volunteered the statement? A. Yes, sir.

Q. And you asked him nothing about it? A. I asked him why he signed as Louis when he was known as Meyer, and he gave me that reply.

Q. That is the explanation he gave you? A. Yes.

Q. Now, did you ever display—or rather, tell me, did you have a badge on your lapel when you were there? A. The badge was on my vest.

Q. And did you see a man by the name of Morris Rabinowitz at No. 508 New Lots Avenue? A. No, sir.

2410 Q. Were you ever at that address? A. No, sir.

Q. And ask that man for an affidavit? A. I don't know the man, I never saw him, and I never went to that address.

Q. Wasn't he the man that you claim selected his chickens? A. Rabinowitz?

Q. Yes. A. No.

Q. You make no such claim? A. No, sir.

Redirect examination by Mr. Rice:

2411 Q. Now, as I understand it, you made some computations on the back of a feed bill for the benefit of Joseph Schechter? A. It was about the time that he signed the reports that he asked me how much he would have to pay on those reports if he sent a check in, and to whom to send the check if he sent it.

Q. And these are the figures on the back of this feed bill? A. Yes.

Q. It is Exhibit F? A. Yes.

2412 Q. Now, just what are those figures? A. The total poundage as reported in the signed copies of the Schechter Live Poultry Market and merely computed for the purposes of determining the amount due thereon.

Q. By the signed copies you refer to the copies of—or rather, you refer to the reports in Exhibit 29 which you say Joseph Schechter signed on that day? A. That is right.

Q. And those reports show the volume of sales reported by Joseph Schechter's establishment? A. That is right.

Q. And you took the volume as reported in Exhibit 29? A. Yes.

Q. And the basis of these volumes, on that basis you computed the amount of assessments due for those particular five weeks from Joseph Schechter's establishment, is that correct? A. Yes, sir, that is correct. 2413

Q. And your conclusion, therefore, was that Joseph Schechter owed only $3.35 for the week of May 25, 1934? A. Yes.

Q. And under the assumption that his report of a volume of 16,757 pounds, contained in Exhibit 29, was correct—

Mr. Heller: I object to counsel's characterization; there is no proof that it is incorrect. 2414

Mr. Rice: I said on the assumption that it is correct.

Mr. Heller: The papers are all in evidence, your Honor.

Mr. Rice: Yes, I say assuming it is correct.

The Court: That is right.

Q. In making these computations you assumed that the volume reported by Joseph Schechter was the correct volume of his poultry sold that week? A. Yes. 2415

Mr. Heller: If your Honor pleases, I don't want any inference before the jury that it was not.

The Court: He wants to know whether he had knowledge.

Q. You don't know whether he actually sold that volume of poultry reported? A. No, sir.

Q. You did not examine his books? A. No.

2416 *Jack Mannean By Govt. Reverse*

The Court: You took it as true?
The Witness: Yes, your Honor.

Q. Now, taking it as true, you figured that Joseph Schechter's assessments for the week of May 25th would be only $1.35? A. Yes.

Q. And for the next week $1.45? A. Yes.

Q. That is all that those figures are? A. Yes.

Q. And that is all the computations you made? A. Yes.

2417 Q. And that is all the writing you ever did at Joseph Schechter's establishment? A. Yes.

Mr. Rice: If your Honor pleases, I now ask the jury to re examine these exhibits.

The Court: Yes.

(Defendant's Exhibit F and Government's Exhibit 29 handed to the jury.)

Reverse examination by Mr. Heller.

Q. Did Mr. Schechter have a bookkeeper there? A. Yes.

Q. And did he have an assistant? A. An as

2418 sistant what?

Q. Did this bookkeeper make up these records for you? A. The records I had seen?

Q. Yes. A. He said that he had. Joseph Schechter made these reports, and since they were in his handwriting, he inserted the addresses for me.

Q. Now, so far as the records showing the sale of merchandise, as evidenced by Exhibit 29—

A. Yes.

Q. (Continuing.) —Exhibit 29 was made by the bookkeeper for Mr. Schechter? A. Yes, as told to me by the bookkeeper of Mr. Schechter.

2419

Q. But the computation was made by you? A. The computation as to what?

Q. As to the amount due, that was made by you in your own handwriting? A. When they asked me how much would have to be paid.

Q. Who asked you? A. I am not sure now.

Q. You still say you don't know a man by the name of Morris Rabinowitz? A. Yes.

Q. You do know him? A. I don't know him.

Q. Of No. 608 New York Avenue? A. I don't know Morris Rabinowitz.

2420

Q. Are you sure about that? A. I may know the individual, but I don't know him by that name.

Q. Did you ever give that name and address to somebody at the Code Authority? A. No.

Q. Did you ever give it to Mr. Rice? A. Not to my knowledge.

Q. Are you sure about that? A. Pretty sure about it.

Mr. Haller: Will your Honor look at Count No. 28?

2421

The Court: Yes; but they are proceeding on Count No. 27 first, and then 38 and No. 1.

Mr. Haller: Do I understand that they have not gone into 28?

Mr. Rice: That is right; we have not gone into Count 28 yet, so far as I know.

The Court: That is the way I understood it.

(Witness excused.)

2422 *Samuel Cohen—By Govt.—Direct*

SAMUEL COHEN, called as a witness on behalf of the Government, having been duly sworn, testified as follows:

Direct examination by Mr. Rice:

Q. What do you do for a living, Mr. Cohen? A. I am employed at the Schechter Brothers Live Poultry Market.

Q. At present? A. At present.

Q. In what capacity? A. As an inside man.

2423 Q. What is that? A. A man that takes care of the poultry, that hands out the poultry to the butchers and does general work.

Q. General manual labor? A. Yes, sir.

Q. And are you a member of any labor union? A. Yes, sir, I am.

Q. What labor union? A. Local 167, Chicken Drivers' and Chauffeurs' and Helpers' Union.

Q. And is that union a part of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers? A. Yes, sir.

Q. And did you say how long you had worked 2424 for Schechters? A. About seven months, six or seven months.

Q. That is, the A. L. A. Schechter Live Poultry Corporation? A. Yes.

Q. At 858 East 52nd Street, Brooklyn? A. Yes, sir.

Q. In May of 1934? A. That is right.

Q. In May, 1934, Schechter Brothers were operating the market at that address? A. Schechter Brothers.

Q. What Schechter Brothers? A. Schechter Brothers.

Q. What particular Schechter Brothers? A. Alex.

Q. That is Alex; which one is Alex? A. The man on the end.

Q. The man in the back? A. The first man, that is right.

Q. You mean the man in the back? A. That is right.

Q. And who else? A. Meyer Schechter.

Q. Which one is he? A. Sitting alongside of him.

Q. The second man from the back? A. Yes, sir.

2426

Q. And who else? A. Abe Schechter.

Q. Which one is he? A. The third man.

Q. The second man from the front? A. That is correct.

Q. Is that correct? A. Yes, sir.

Q. They were operating the live poultry slaughter house market at that address in May? A. Yes, sir.

Q. And also in June? A. That is right.

Q. And in July? A. Yes, sir.

Q. Throughout that period? A. Yes, sir.

Q. Do you know who Joseph Schechter is? A. Yes, sir.

2427

Q. Which one is he? A. The first man on the right there.

Q. What was he doing in May and June, 1934? A. What has he been doing?

Q. What was he doing from May 16, 1934, up through July, 1934.

Mr. Heller: That question is too broad, your Honor; he might have gone to the movies some nights, I do not know.

The Court: Well, do you know what business he was in?

The Witness: Yes, sir, live poultry business.

Q. At what address? A. He has been at 991 Rockaway Avenue.

Q. Was he at 991 Rockaway Avenue at that time? A. Not from about May 16th.

Q. What time, what period of time was he there? A. Where?

Q. At 991 Rockaway Avenue. A. Up to about May 1st—up to about May, I do not know exactly what day.

Q. You mean up to May 1, 1934, Joseph Schechter was operating at 991 Rockaway Ave-
2429 nue? A. Yes, that is right.

Q. And then did he suspend his business for a while? A. Yes, sir.

Q. For how long? A. I do not know, sir.

Q. When did he go back to 991 Rockaway Avenue? A. I can't remember.

Q. Just about when? A. I don't know.

Q. Some time in June? A. Probably.

Q. May or June? A. Probably in May.

Q. Probably in May? A. Yes.

Q. How long did he stay there? A. For about two weeks.

2430 Q. Then what did he do? A. Then he came in at 858 East 52nd Street.

Q. And Joe Schechter is now one of the proprietors at 858 East 52nd Street? A. That is right.

Q. Along with Alex and Martin Schechter, is that right? A. That is right.

Q. Now, in May, June and July, what did Alex Schechter do at the place at 858 East 52nd Street? A. In May, June and July he has been on the floor, a salesman.

Q. Alex? A. Taking care of the market.

Q. What do you mean by that? A. Well, as a

2431

boss taking care of sales, taking care of the place of business.

Q. Who did the purchasing? A. Joe Schechter.

Q. Joe Schechter? A. That is right.

Q. He was doing the purchasing at that time for the A. L. A. Schechter Poultry Corporation? A. That is right.

Q. What did Martin Schechter do during that time? A. Charging poultry.

The Court: What?

The Witness: Charging poultry at the scale.

2432

Q. He is the man that stood at the scales? A. That is right.

Q. When a customer came in and purchased poultry? A. That is right.

Q. That is, a retailer or a butcher, when they came in? A. That is right.

Q. What did Aaron Schechter do during this period of time? A. He was a salesman in charge.

Q. A salesman? A. Yes, sir.

Q. Were they all active on the premises? A. Yes, sir.

2433

Q. In those capacities? A. Yes, sir.

Q. Do you know Martin Schechter by any other name? A. Yes, sir.

Q. Martin Schechter being the second man from the last? A. That is right.

Q. What other name did you know him by? A. Meyer Schechter.

Q. Meyer Schechter? A. That is right.

Q. Have you seen him sign under any other name? A. Yes, sir.

Mr. Heller: I object to that, your Honor; we are not being charged with using different signatures.

2434

The Court: He may want to identify him.

Mr. Rice: We have described him under all three names.

The Court: He may want to identify him, that is all.

Q. Have you seen him sign any other name? A. Yes, sir.

Q. What other name? A. Louis Schechter.

Q. Louis Schechter? A. Yes, sir.

2435

Q. On what occasion? A. I do not know, sir.

Q. Has he ever signed any checks for your salary? A. Yes, sir.

Q. Under that name? A. Yes, sir.

Q. Then he uses three names, Louis, Martin and Meyer, is that correct? A. I guess so.

Q. And Aaron Schechter, have you known him by any other name? A. Yes, sir.

Q. What name? A. Abe Schechter.

Q. You have heard him called that? A. Yes, sir.

2436

Q. Mr. Cohen, is there any other member of Local 167 working at Schechter Brothers? A. Yes, sir.

Q. Was he working there in May, June and July, 1934? A. That is right.

Q. What is his name? A. Abe Danziger.

Q. Abe Danziger? A. That is right.

Q. You were working there all that period of time? A. Yes, sir.

Q. Right up to date? A. Yes, sir.

Q. Both of you? A. Yes, sir.

Q. Did you keep track of the amount of poultry brought into Schechter Brothers during May and June, 1934? A. Yes, sir.

Q. For what purpose? A. For—there has been——

Q. Speak up a little louder so that the jury can hear you. A. We keep this record for the Local.

Q. That is, you keep track of the amount of poultry brought into the Schechter Live Poultry Market for the union? A. Yes, sir.

Q. For what purpose? A. To see if there is enough work for another man, or to see if there isn't enough work to take a man off.

2438

Q. That is, you keep track of the amount of— A. Poultry sold

Q. Poultry they handle, to see whether or not they can use another member of your union? A. That is right.

Q. As a workman? A. That is right.

Q. Is that correct? A. Yes, sir.

Q. Do you keep track of the actual amount of poultry handled by the Alex Schechter Poultry Corporation? A. That is right.

Q. You keep track of that? A. Yes, sir.

Q. You keep strict account of the amount sold? A. Yes, sir.

2439

Q. And strict account of the amount brought in? A. Yes, sir

Q. Do you make any reports? A. Yes, sir.

Q. What sort of reports do you make? A. A weekly report.

Q. What is done with that report? A. It is turned in to the local union.

Q. Is it part of your duties as a member of the union to make such a report? A. Yes, sir.

Q. And you turn it in each week? A. Yes, sir.

2440 Q. Did you make such a report for the week commencing May 25, 1934? A. Yes, sir.

Q. I hand you a card which is labeled "Rugby," and has certain figures on it, and ask you whether or not you have seen that before? A. Yes, sir.

Q. What is that? A. Stock card.

Q. A stock card? A. A weekly report card.

Q. That is the weekly report card that you make out and turn in to your union? A. That is right.

2441 Q. And that is kept as part of the union files? A. That is right.

Q. Does anybody look over that besides yourself? A. Well, my co-worker.

Q. Your co-worker, Abe Danziger? A. That is right.

Q. He looks over it every week? A. Yes, sir.

Q. And he helps check the accuracy of it? A. That is right.

Q. This card is headed "Rugby." Why is it

2442 headed Rugby? A. Well, it has been the Rugby, it has been the A. L. A.; it was called the Rugby and it was called the A. L. A.

Q. That is, the Rugby Live Poultry Market is the same as the A. L. A. Schechter Poultry Corporation? A. And also Schechter Brothers.

Q. And also Schechter Brothers. Does this card show the amount of poultry brought into Schechter Brothers during the week commencing May 25th, that is, Friday, May 25th, 1934; am I correct in my date? A. I have no date on there, Mr. Rice.

2443

Q. You have no date on there. Do you recall what date that report was for? Now think carefully. A. I can't recall that.

Q. You can't recall? A. No, sir.

Q. Can you remember any day of the week designated in that card? A. Yes.

Q. What day? A. Starting Friday.

Q. Your reports always start on a Friday? A. That is right, Friday to Friday.

Q. How many baskets of poultry were received that Friday, if any, at A. L. A. Schechter Poultry Corporation?

2444

Mr. Heller: What month and date?

Q. (Continuing) On that particular Friday.

Mr. Rice: We will arrive at that.

The Court: Let us see what date it is.

Q. Do you know which Friday this is? Would you like to look at a calendar? A. Yes.

Q. (Handing calendar to the witness.)

The Court: What Friday was it?

The Witness: May 25.

2445

Q. This was Friday, May 25? A. That is right.

Q. And is this the report showing the amount of poultry received at the A. L. A. Schechter Poultry Corporation during the week commencing May 25, 1934? A. Yes, sir.

Q. Will you tell us how much poultry was received at Schechters on Friday, the 25th? A. 18 coops of poultry.

Q. Was it 18 coops received? A. Yes, sir.

Q. How many coops of poultry were on hand at the close of business? A. Seven coops.

2446 Q. Is that the total inventory at the end of the previous week? A. At the end of the previous week seven coops.

Q. There were seven coops of poultry left on hand as of what time? A. I would say after the shochet went home, after 12.

Q. After 12 noon on Friday, May 25, 1934, is that correct? A. Yes, sir.

Q. Is it your custom to count the inventory at that particular time of each week? A. Yes, sir.

2447 Q. For what purpose? A. To carry it on the next week.

Q. So that you can find out how much poultry has been sold next week? A. Yes.

Q. You take the inventory at the beginning of the week? A. That is on Friday.

Q. Yes, Friday noon, and then you take the inventory of the amount of poultry left at the end of the week the following Friday? A. Yes, and ducks, if there is any left, to be carried on the following week.

2448 Q. You say there were seven coops of poultry left at the close of the Friday killing? A. Yes.

Q. On May 25? A. That is right.

Q. How much poultry was brought in on Friday? A. 18 coops.

Q. Was any poultry brought in on Saturday, the following day, that is May 26th? A. No, sir.

Q. Was any brought in on Sunday, May 27th? A. Yes, sir.

Q. How much? A. There was about—two loads of poultry came in—about 82 baskets.

Q. About 82 baskets? A. Yes.

Q. Is that all? A. Yes, sir.

Q. Do you know where that poultry came from? A. Philadelphia.

Q. On Monday, May 28th, was any poultry brought in to Schechter's market? A. No, sir.

Q. Were you there on Monday? A. Yes, sir.

Q. Until what time? A. Four o'clock.

Q. And then you left at four o'clock? A. Yes, sir.

Q. Do you know how much poultry was on hand when you left? Did you count the amount that was on hand when you left? A. Yes, sir.

2450

Q. Do you know whether any poultry came into the place on Monday, May 28th, between the time that you left and prior to the following morning, Tuesday, May 29th? A. Yes, sir.

Q. How much came in? A. 42 coops, and 59 baskets.

The Court: What is that?

The Witness: 42 coops and 59 short baskets.

Q. 42 coops? A. Yes.

Q. Do you know whether it was exactly 42 coops that came in? A. Yes.

2451

Q. Did it come in in 42 cooops? A. I don't know whether it came in in 42 coops, but I know for a fact that there was 38 empty coops on that truck and when I got there next morning I counted 42 additional coops.

Q. Do you know how much came in on Tuesday, May 29th? A. 38 coops.

Q. 38 coops? A. That is right.

Q. Is that all? A. That is all.

Q. Wednesday, May 30th? A. Wednesday, May 30th, was Decoration Day, if I am not mistaken.

2452 *Samuel Cohen—By Govt.—Direct*

Q. Yes, how much came in then? A. We were not there when the poultry did come in.

Q. Do you know whether any poultry came in prior to Thursday morning? A. Yes.

Q. May 31? A. Yes, sir.

Q. How much? A. 62 coops.

Q. Did any other poultry come in on Thursday, May 31? A. Yes, sir.

Q. How much? A. 18 coops.

Q. How much on Friday?

2453 The Court: What?

The Witness: 18 coops.

Q. Any on Friday? A. I cannot recall the Fridays.

Q. What is that? A. I cannot recall the Fridays.

Q. That is not on the card? A. No.

Q. That would be for the next week? A. For the next card.

Q. Are all of these figures shown on this card that I handed to you? A. Yes, sir.

2454 Q. And this is kept as a regular record? A. That is right.

Q. Of the union? A. Yes, sir.

Q. And it is part of your duties as a member of the union to keep the record? A. That is right.

Mr. Rice: I offer this in evidence.

Mr. Heller: The witness has already testified to what the contents are, and the best evidence is the witness' testimony.

The Court: Yes; he had a right to use it to refresh his recollection.

Mr. Rice: Do you object?

Mr. Haller: Yes.

The Court: He had a right to use it to refresh his recollection and he has.

Mr. Rice: I thought it might come in to corroborate him as a bookkeeping entry.

The Court: If counsel objects, I will have to sustain the objection.

Mr. Rice: It is quite immaterial.

Q. Now let us go back to Saturday, May 26th. You have that day in mind? A. Yes. 2456

Q. That is the day you said how much poultry came in? A. None.

Q. But did any come in on Sunday? A. That's right.

Q. How much? A. 82 baskets.

Q. How do you know that 82 baskets came in on Sunday? A. I counted the empty baskets.

Q. You counted the empty baskets? A. That's right.

Q. When did you count them? A. On Monday.

Q. Did anybody else count the empty baskets on Monday? A. My co-worker. 2457

Q. Did you examine the 82 baskets? A. Yes, sir.

Q. And what did you see? A. Empty baskets.

Q. Do you know what had happened to the chickens that had come in in those 82 baskets? A. I don't get that question.

Q. Were there any other chickens in the premises? A. Yes.

Q. Any chickens in addition to those you had seen there on the previous Saturday? A. Yes.

Q. And where were they contained? A. In coops.

2458 Q. Approximately how much did you see in coops in addition to that you had seen there the previous Saturday? A. I haven't counted them.

Q. Well, would it be about the amount that 82 empty baskets would hold? A. I cannot recall.

Q. But did you satisfy yourself at that time that 82 coops had come in on Sunday—I mean 82 baskets? A. Yes, sir, 82 baskets.

Q. And did you look for the inspection labels on the 82 baskets? A. That's right.

2459 Q. And what did you see? A. None.

Q. How do you remember there were no inspection labels? A. They were practically new baskets.

Q. You are sure that there were no inspection labels? A. That's right.

Q. Of any sort? A. No.

Q. Not even old inspection labels? A. No.

Q. Do you know where that poultry came from? A. Philadelphia.

Q. How do you know? A. I was told.

Q. By whom? A. By Meyer Schechter and Sol.

2460 Q. Now the additional poultry you saw on Monday morning in the coops did you examine those coops? A. Yes.

Q. And had you seen those coops before? A. Yes.

Q. And did you examine them for inspection labels? A. That's right.

Q. Now on Monday morning was May 28th, wasn't it? A. Yes, that's right.

Q. What inspection labels did you see on those coops into which the poultry had been put? A. May 23rd.

2461

Q. You saw inspection labels dated May 23rd? A. Yes.

Q. Had you seen those inspection labels previously? A. Have I seen those?

Q. Had you seen the May 23rd inspection labels prior to Monday, May 28th? A. Yes.

Q. When had you seen them? A. On Friday.

Q. And those coops were empty at that time? A. That's right.

Q. And they had been used on May 23rd to bring in poultry—the previous week? A. That's right.

2462

Q. That's correct, is it? A. Yes.

Q. Now the same inspection labels, dated May 23rd, were on those coops on Monday, May 28th? A. Yes, sir.

Q. And were there any other inspection labels, old labels scraped off? A. No.

Q. None after May 23rd? A. No.

Q. Did Danziger also examine these 82 baskets? A. That's right.

Q. And the coops into which the poultry had been put? A. Right.

2463

Q. And do you know who purchased these 82 baskets of poultry in Philadelphia? A. I don't know, sir.

Q. Do you have any information on it? A. Not to my best knowledge.

Q. Do you know who went to Philadelphia in connection with the purchase? A. Yes.

Q. How do you know? A. I seen them come back.

Q. Well, who did you see come back from Philadelphia and when? A. It was on Saturday night about eleven o'clock.

Q. Who came back? A. Mr. Joe Schechter and Mr. Sol Wagshul.

Q. That is one of the customers? A. That's right.

Q. Now you say that you saw them come back from Philadelphia on Saturday, May 26th? A. Yes.

Q. You saw Joseph Schechter? A. That's right.

Q. Any other Schechter brother? A. I know that Abe Schechter went there but he did not
2465 come back to the market.

Q. Do you know when he did come back? A. Probably the same time that they came back.

Q. How do you know that Abe Schechter went to Philadelphia on Saturday, May 26th? A. Because Sol Wagschaul just told me he dropped Abe Schechter off at the house.

Q. Did anybody else say anything about Abe Schechter going to Philadelphia? A. No.

Q. Did Joe Schechter say anything about having been to Philadelphia? A. Not directly.

Q. What did he say indirectly, if anything?
2466 A. They had a tiresome trip.

Q. And he told you about the tiresome trip? A. Well, Sol is the one that told me about the tiresome trip.

Q. What did Joe Schechter tell you? A. Nothing.

Q. Nothing else? A. No.

The Court: How do you know he went to Philadelphia?

The Witness: Sol Wagschaul just——

The Court: But did either of the Schechters tell you?

The Witness: No, sir.

Mr. Heller: I move to strike out all of the testimony with reference to the trip to Philadelphia.

Mr. Rice: Just a moment. We will connect it up. We have not exhausted the witness yet.

The Court: I will let you ask him further, but unless the Schechters told him, he cannot testify; he cannot tell what the other man told him.

2468 Q. On Saturday morning do you know where Abe Schechter went? A. On Saturday morning?

Q. Yes. A. I do not.

Q. Did you see Abe Schechter on Saturday? A. No, sir.

Q. When did you see him? A. I haven't seen him at all on Saturday.

Q. Did you see him Sunday? A. No, sir.

Q. On Monday morning? A. Right.

Q. Did he say anything about the trip to Philadelphia or a trip to Philadelphia? A. He didn't say anything about a trip to Philadelphia, 2469 but—he did not.

Q. Did he say anything at all? A. I can't recall.

Q. Did he say anything about the 82 baskets? A. Not that I can remember.

Q. Did Joseph Schechter say anything about the 82 baskets that had been purchased? A. No, sir.

Q. Did he say anything about having been to Philadelphia? A. No, sir.

Q. Did he say anything about having had a tiresome trip to Philadelphia? A. Not that I can remember.

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Q. Not that you can remember. How about Alex Schechter, did he say anything? A. No, sir.

Q. Did he say anything about his brother's being in Philadelphia?

Mr. Heller: He has said none of them said anything; he has mentioned all the names.

The Court: Well, he can ask him.

2471 A. Ask me that again?

Q. Did Alex Schechter say anything about his brother going to Philadelphia or being in Philadelphia or having been there? A. I can't recall that, sir.

Q. You do not recall? A. No.

Q. You remember any of the Schechter brothers saying anything about going to Philadelphia? A. About going to Philadelphia?

Q. Yes. A. Not about going to Philadelphia, but being in Philadelphia.

Q. Who did say that? A. Meyer Schechter.

Q. What did he say?

2472

Mr. Heller: When was that?

Q. Yes, when was that? A. At about eleven o'clock at night, Saturday night.

Q. You were in the premises then? A. That is right.

Q. What did you hear Meyer Schechter say? A. He got a call from some part of Pennsylvania.

Q. You heard what he said, you heard what Meyer Schechter said? A. Yes, sir.

Q. What did he say?

2473

Mr. Heller: Was this over the telephone?

The Witness: Yes, over the 'phone.

Mr. Heller: I object unless there is testimony to show who was on the other side.

The Court: You can't tell what the other party said; he can only tell what he heard Meyer say.

Q. What did Meyer Schechter say? A. Meyer Schechter told him that he is going to go out.

2474

Q. Out where? A. Out towards Philadelphia.

Q. Meyer Schechter told the person on the other end of the wire that he was going out to Philadelphia? A. Towards Philadelphia, yes, sir.

Q. Did he say what for? A. He told me the trucks broke down or the trucks got stopped.

Q. Meyer Schechter told you that the trucks got stopped? A. Yes, one of the trucks got stopped.

Q. Did he say where they were stopped? A. Yes, Langhorne, Pennsylvania.

2475

Q. Did he tell you where they were coming from, or going to? A. He told me they were coming from Philadelphia.

Q. He said that? A. Yes.

Q. That was eleven o'clock Saturday night? A. That is right.

Q. May 26th? A. Yes.

Q. Then you say that 82 baskets came in from Philadelphia on Sunday, May 27th? A. That is right.

Q. You testified——

Mr. Heller: He did not say that. He said he found them there.

Q. You found 82 baskets? A. That is right.

Q. When you got there first thing Monday morning? A. That is right.

Q. And the poultry that had come in those baskets wasn't there when you left on Saturday, May 26th? A. That is right.

Q. Is that correct? A. Yes.

Q. On Monday, May 28th? A. Right.

Q. Was any other poultry brought into the Schechter place? A. No, sir.

2477 Q. Was any poultry sent for? A. Yes, sir.

Q. On that day? A. Yes, sir.

Q. What did you do on that day? A. I got there around ten after six Monday morning.

Q. What did you do? A. There was a load of 38 empty coops on the truck.

Q. Who put the 38 empty coops on the truck? A. I don't know.

Q. You found them on the truck? A. That is right.

Q. How did you know there were 38? A. I counted them.

2478 Q. What is the manner of counting the number of coops? A. Five times seven.

Q. That is, they were seven high? A. Yes, sir: three on a tier.

Q. Five deep? A. That is right.

Q. That makes 35 and 3—— A. On top of the cab.

Q. On top of the cab; there were 38 coops? A. Yes.

Q. You remember that distinctly? A. Yes.

Q. What happened to those 38 empty coops? A. I helped Meyer Schechter tie up that load.

Q. Was anybody else there? A. No.

2479

Q. What did Meyer Schechter say? A. He is going to Philadelphia.

Q. Do you know whether he went? A. I take it for granted that he did.

Mr. Heller: I object to what he took for granted and move that it be stricken out.

The Court: Strike it out.

Q. Did you see Meyer Schechter leave? A. Yes.

2480

Q. And that was after he said he was going to Philadelphia? A. Right.

Q. What time did you leave the place Monday night? A. Four o'clock.

Q. And the poultry had not yet arrived at four o'clock? A. No.

Q. Do you know whether any poultry arrived between four o'clock Monday afternoon and Tuesday morning, when you arrived there? A. Yes, sir.

Q. How do you know? A. Well, I got there Tuesday morning and I counted the poultry that I had left Monday night, and I found additional poultry.

2481

Q. You had counted that which was at the premises when you left Monday night? A. Yes.

Q. And when you got there Tuesday morning you counted again? A. Yes.

Q. In order that you could determine how much poultry arrived the next morning? A. Yes, between Monday night and Tuesday morning.

Q. How much poultry did arrive between Monday night, May 28th, and Tuesday morning?

2482

Mr. Heller: If your Honor pleases, he has got the dates in and the amounts of poultry that came in day by day.

The Court: What is the question?

(Question repeated by the reporter.)

The Court: You have already got that.

Q. Now, you sent out 38 empty coops that morning? A. Yes.

Q. And the next morning you found 42 additional coops and 59 baskets in the place? A.

2483 Yes.

Q. How were the 42 coops packed, tight or loose? A. Loose.

Q. And the 38 coops of poultry had been loosened in the 42 coops?

Mr. Heller: I object to that characterization, your Honor.

Mr. Rice: Very well, I withdraw the question.

Q. What is the practice in the Schechter market when they bring in coops of poultry from

2484 out of town? A. I did not have the experience, with the exception of that week, so I don't know.

Q. Well, what is the practice when they bring it in from any place in coops? A. If the poultry is packed, we loosen them up into additional coops.

Q. How do you do that? A. We take a few out of each coop.

Q. Now, if you have 38 coops coming in, you might take a few out of each coop and make up three or four additional coops, is that it? A. Yes.

Q. So you have 42 coops instead of 38? A. Right.

2485

Q. And you found 42 coops there Tuesday morning? A. Right.

Q. And did you examine those 42 coops? A. I don't recall.

Q. Did you see any inspection labels on the 42 coops——

The Court: We will take a recess until two o'clock P. M. Gentlemen of the Jury, do not discuss this case among yourselves or allow anyone to discuss it with you, and return here at two o'clock sharp.

2486

(Recess until 2 P. M.)

(Met pursuant to adjournment at 2:00 P. M.; present as before.)

SAMUEL COHEN, resumes the stand:

Direct examination (continued) by Mr. Rice:

Q. Mr. Cohen, you have testified that when you got to the place early Tuesday morning, May 29th, 1934, you found 42 additional coops of poultry and 59 baskets of poultry in the premises. A. Yes, sir.

2487

Q. Did you look at those 42 coops and 59 baskets to see whether or not they had inspection labels? A. Yes, sir.

Q. What did you find? A. Labels had been on there dated——

The Court: On what?

The Witness: On them coops.

Q. On the 42 coops? A. That is right.

Q. Look over this way, Mr. Cohen, so the jury

can hear you. A. Labels had been on there dated May 23.

Q. May 23? A. That is right.

Q. You found inspection labels dated May 23? A. That is right.

Q. On the coops? A. On the coops.

Q. Did you find any other labels? A. Old labels.

Q. No labels more recent than May 23rd? A. That is right.

2489 Q. How about the 59 baskets? A. No labels at all.

Q. No labels at all? A. That is right.

Q. You are sure about it? A. Yes.

Q. Did your fellow worker, Abe Danziger, also look at the 59 baskets and the 42 coops? A. That is right.

Q. At the same time? A. Right.

Q. Do you know what happened to those 59 baskets of live poultry? A. Yes, sir.

Q. Will you tell us what happened? A. About 10 o'clock——

Q. The same day? A. Right.

2490 Q. Tuesday, May 29? A. Right. After we got through with the butchers, my co-worker, Abe Danziger backed the truck into the driveway and we started laying the baskets, five at a time, loading them on the truck.

Q. You and Abe Danziger loaded 59 baskets of poultry on the truck? A. And another man with us.

The Court: Was there any poultry in them or were they baskets that were empty?

The Witness: Poultry in them.

2491

Q. About how many pounds of poultry are contained in a basket? A. I have no idea.

Q. About how many, usually? A. About 13, 14 heads in a basket.

Q. About 60 pounds? A. A little more.

Q. Sometimes more and sometimes less? A. Right.

Q. Depending on the weather? A. Depending on the size of the fowl.

Q. Then would the 59 baskets of poultry weigh somewhere around 3,500 pounds? A. I really don't know.

2492

Q. I mean, just the poultry in the baskets. A. Right.

Q. About that amount? A. Yes.

Q. And did you weigh those 59 baskets on that day? A. I did.

Q. Did you weigh the net amount of the poultry or the gross amount, with the baskets? A. With the baskets.

Q. And you did not weigh the amount of the tare? A. That is right.

Q. Do you remember what the gross weight was, including the tare, including the weight of the baskets? A. I do not.

2493

Q. You don't remember? A. No, sir.

Q. You made a notation of it at that time, did you not? A. I did.

Q. Do you recall whether it was around 4,800 pounds, including the baskets? A. I just cannot recall the weight of it. I have weighed it, but I just cannot recall the weight of it.

Q. Who told you to weigh it, and load it? A. Meyer Schechter.

Q. Who else was there at the time? A. Al Schechter was there and Abe Schechter was there.

2494

Q. They were all three there? A. Right.

Q. Were they all three in the presence of Meyer Schechter when he told you to weigh and load the coops? A. I just cannot——

Q. Or the baskets? A. I cannot recall that.

Q. But they were there that time? A. Right.

Q. Do you know whether they knew that the poultry was being weighed? A. Yes, sir.

Q. All of them? A. Right.

Q. How do you know that? A. They were around the premises.

2495

Q. Do you know whether all three of the Schechter brothers knew that the poultry was being loaded on the truck? A. Yes, sir.

Q. How do you know that? A. They saw us load it.

Q. What were your instructions in addition to that from any one of the Schechter brothers? A. I don't quite get that clear, Mr. Rice.

Q. Was there anything else said as to what was to be done with the 59 baskets of poultry? A. Not that I know of.

2496

Q. You did not hear anything further? A. Yes, sir, I did hear it. I can recollect.

Q. Who said it? A. Abe Schechter.

Q. What did he say? A. There was a colored doctor that came in that day——

Q. What is his name? A. Dr. Seabrook.

Q. From the Health Department? A. Right. And we were just about finishing loading up that truck, and Dr. Seabrook walked in and he asked him for an inspection ticket.

Q. He asked who for an inspection ticket? A. He asked Abe Schechter.

Q. Did he look at the baskets first? A. Yes.

Q. Then he turned to Abe Schechter? A. That is right.

2497

Q. And asked him for an inspection ticket? A. Or first he walked through the market, looked through the market, then he came to the back of the market, whereby we have another extension to the market, and that is where the 59 baskets were, and when he came over to them 59 baskets, he asked Abe Schechter for a ticket.

Q. And that was during the loading of the 59 baskets? A. Yes.

Q. Who was present when he asked Abe Schechter that? A. Myself and my co-worker.

2498

Q. Abe Danziger? A. Right.

Q. How about Alex or Martin? A. I cannot recall that.

Q. What did Abe Schechter say when Dr. Seabrook asked him for the inspection ticket? A. He told him that load is going down to Wallabout Market.

Q. Did he say anything else? Did he say what it was going down to Wallabout Market for? A. I cannot recall that.

Q. What do they do at Wallabout Market? A. They inspect poultry.

2499

Q. Did he say why that poultry was going to Wallabout Market? A. I cannot recall that.

Q. He did not say anything about sending the poultry down to Wallabout Market for any particular purpose?

Mr. Heller: I object to this.

The Court: He said he doesn't remember. Now, search your memory. Can you remember anything about what was said?

The Witness: No, your Honor, I cannot remember.

2500 Q. You don't recall whether or not he said why it is going down to Wallabout Market for inspection? A. I won't commit myself; I don't remember.

Q. What is your best recollection? A. Our understanding is this: That the poultry that——

The Court: Oh no, no.

Q. What is your best recollection? A. That the poultry went down for inspection to Wallabout Market.

2501 Q. Do you mean that Abe Schechter said that? A. I would not say whether he did or not; I cannot remember.

The Court: Strike that out.

Q. Dr. Seabrook was asking him for the inspection ticket? A. Right.

Q. And what did Abe Schechter say? A. He told him he sent them down to Wallabout Market for inspection.

Q. Do you know whether or not that poultry

2502 actually went to Wallabout Market for inspection? A. I do not.

Q. Abe Danziger was there at the time? A. Right.

Q. What did Abe Danziger do? A. What he done?

Q. Yes. A. During what time was that?

Q. After the poultry was loaded on the truck, these 59 baskets were loaded on the truck, did any of the Schechter brothers say anything to Abe Danziger? A. Not then.

Q. Later on? A. Yes.

Q. Who said it? A. He pulled the truck out of the driveway.

2503

Q. Who did? Danziger did? A. Right. He pulled it up to the front. We had tied up that load in order that the baskets would not fall off. During that time Dr. Seabrook had left. Danziger was on the truck. I haven't seen Seabrook around and he has left the place, or what I don't know.

Q. Now just a minute, you did not see Dr. Seabrook there? A. No, I don't know what became of the load of poultry or where it went to.

Q. Who went with the poultry? A. Abe Danziger.

2504

Q. And he drove the poultry somewhere away? A. Yes.

Q. And you don't know what happened to it after that time? A. Right.

Q. Now did you hear Alex Schechter say anything to Danziger after the 59 baskets were loaded on to the truck? A. I did not.

Q. After they were tied on? A. I did not.

Q. You did not hear Alex say anything to Danziger as to what he should do? A. Not that I remember.

2505

Q. You don't recall whether or not Alex Schechter told Danziger to wait a while?

Mr. Heller: If your Honor pleases, we have been all over that. He said he did not know what happened after they were loaded.

The Court: But he can help the man to refresh his recollection.

The Witness: I cannot remember, Mr. Rice.

Q. Do you know what happened to the 82 baskets of poultry which you said did not bear inspection

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labels, which was brought in on Sunday, May 27th? A. What happened to them?

Q. Yes, during the course of the week? A. They were reloaded into empty coops.

Q. And what happened to them? A. Then the New York Live Poultry Trucking truck—I don't remember what date it was, whether it was Monday or Tuesday—came around and we loaded it on that truck.

Q. Do you know whether the 82 baskets of
2307 poultry were sold during the week? A. The 82 baskets?

Q. Yes, that came in on Sunday, May 27th. A. During the course of the week?

Q. Yes. A. Yes.

Q. Do you know whether or not all of that poultry was sold during the course of the week? A. Yes, with the exception of about a coop and a half.

Q. How do you know that? A. Well, we had about 300 pounds of stock that I remember.

Q. There were 300 pounds left over at the end of the week? A. I did not weigh it, but I should
2308 judge.

Q. About a coop and a half? A. Yes.

Q. But all the other poultry that had been brought into this place during that week was sold during that week? A. Yes, sir.

Q. Excepting this half coop or coop and a half? A. Yes.

Q. Now, were you present there every working day that week? A. Right.

Q. And all during working hours? A. That's right.

Q. And all during the time that poultry was sold? A. Yes.

Q. What did you do? A. I handed out the poultry to the butchers.

Q. And you saw these 82 baskets of poultry sold? A. I saw the coops.

Q. You saw the chickens that had come in the baskets sold during the week? A. Yes.

Q. How about the 42 coops that came into the place May 29th, during the night? A. It was sold during that week.

Q. You have already told us what happened to the 59 baskets in your presence. A. Right.

Q. Now do you recall seeing Joseph Schechter 2510
shortly after May 16th, 1934, when the Code went into effect? A. Yes.

Q. Where did you see him? A. 858 East 52nd Street.

Q. And did you hear him say anything at that time? A. Yes.

Q. What did he say? A. That he was going back in the business.

Q. What else did he say? A. That he was going back in the business.

Q. That he was going back in the business? A. He is going back into the business. 2511

Q. Did he say why he was going back into the business? A. Yes.

Q. What did he say? A. The week after the Code went into effect the place has made some kinds of profit.

Q. What place? A. 858 East 52nd Street.

Q. Do you know how much profit they made the first week after the Code went into effect?

Mr. Heller: I object to that, your Honor. The books are the best evidence.

Mr. Rice: We will see whether he has any information from the Schechters.

Q. Did any of the Schechters say how much they had made during the week that the Code went into effect? A. It wasn't Mr. Schechter direct.

The Court: We don't want it.

Q. Did any of the Schechters say anything? A. No.

Q. Well, what did Joseph Schechter say on this particular occasion? A. That he is going back
2513 into the business, which I have heard him remark to a dealer while he was sitting in the car. He said he is going back in the business, leg or no leg, he is going back into the business.

Q. Did he say why? A. I don't why; there must be a reason why.

Q. Did he say anything as to why? A. No.

Q. Did he say anything about the Schechters, at 858 East 52nd Street, having made $600 the first week after the Code went into effect?

Mr. Heller: I object to these leading questions, your Honor.

2514 Mr. Rice: I have exhausted his memory, your Honor.

The Court: I think so.

The Witness: He did, Mr. Rice.

The Court: (To witness.) Search your memory and try to remember what he did say.

The Witness: He did, your Honor, I can recall that.

Q. Now tell us what he said. A. Well, there was a dealer came around with his car by the name of Jack or Morris Domsky and they started kidding one another and naturally it wound up

with Joe Schechter remarking to him that if a place could make $600 profit that week he is going back in the business. It was a Jewish holiday week and the week after the Code went into effect. During that week that the Code went into effect I mean.

Q. Now you were present at the A. L. A. Schechter Live Poultry Market during the week after the Code went into effect? A. Right.

Q. From May 16 up to the present time? A. Yes.

Q. Every working day? A. With the exception of one or two days, probably three days. 2516

Q. Do you know what the practice of straight killing is? A. Yes.

Q. As understood by the trade? A. Right.

Q. What is the practice?

Mr. Heller: Now if your Honor pleases, we have been over the practice of straight killing so many times.

The Court: Yes, what other people say, but he is trying to qualify him. Go ahead.

Mr. Heller: Exception. 2517

Q. What is the practice? A. Straight killing means everything in the coop.

Q. Excepting what? A. Unfit poultry.

Q. That is you have to take the run of the coop or half coop? A. Right.

Q. Excepting that you can eliminate poultry that is unfit for human consumption? A. Yes.

Q. And is that the way the term straight killing is understood in the poultry trade? A. Yes.

Q. Do you know whether or not Alex Schechter, Martin Schechter and Aaron Schechter and

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the A. L. A. Schechter Live Poultry Market practiced straight killing after May 16, 1934?

Mr. Heller: I object to that as calling for a conclusion.

The Court: Sustained.

Q. What was the practice at this market on the part of these three individuals after May 16, 1934? A. One week after May 16, 1934, straight killing was in effect for the entire week.

2519 Q. Whereabouts? A. At No. 858 East 52nd street.

Q. And that practice of straight killing continued for one week after the Code went into effect? A. That's right.

Q. Now what happened after that one week? A. They did not practice straight killing afterwards.

Mr. Heller: I object to that.

The Court: Yes, but he can state what happened on any occasion, but he cannot give his conclusion, I do not believe.

2520

Q. For one week after the Code went into effect did you see any poultry sold at the market at 858 East 52nd Street by the coop or half coop, without rejections?

Mr. Heller: That is objected to. Let us have the day, the time, the month.

The Court: I think that is so. I do not think you can go into a general thing like that. Let him start out and tell us any day that he saw that a sale was made, and in any particular way, not a general one.

Q. You say for one week after the Code went

into effect straight killing was practiced at the Schechter Market? A. Right.

Q. What happened after that? Do not use the term "straight killing," just tell us what happened. A. What happened after that week?

The Court: Tell us any particular person; do not state generally, just state the particular person. You have got to fix the day and the person. They have got to have an opportunity to meet it. Tell us of any day when you saw any selected killing done, 2522
and who and where and when.

The Witness: There was no straight killing after that week, your Honor.

The Court: All right; strike that out. Tell us anybody that you saw who selected poultry.

The Witness: They all did, all our trade.

The Court: Give us the names and dates.

The Witness: The date I do not know.

Q. Now I will direct your attention to certain 2523
dates and certain names, Mr. Cohen. Do you recall the date of June 20, 1934, on a Wednesday——

Mr. Rice: May we use your calendar again?

Mr. Heller: Surely.

The Court: The 20th wasn't Wednesday if the 25th was Friday.

Mr. Rice: This is June, your Honor, June 20th.

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The Court: June 20th was a Wednesday. The Court takes judicial notice of that.

Mr. Rice: I am not so sure it was a Wednesday; perhaps I am mistaken.

The Court: 1934?

Mr. Rice: Yes, sir.

The Court: In 1934 the 20th of June was a Wednesday.

2525 Q. Look at that calendar, Mr. Cohen, and see whether you can recall the day of June 20, 1934, a Wednesday. What time did you arrive at the place that morning? A. 7 a. m.

Q. And who did you find there? A. Alex Schechter, Meyer Schechter, and Abe Schechter.

Q. Do you recall Morris and Sol Wagshul coming into the place? A. That is right.

Q. Who are they? A. They are both brothers and dealers.

Q. They are retail dealers? A. That is right.

Q. Having a store at what address? A. 969 Nostrand Avenue and 127 Sutter Avenue.

2526 Q. What happened? A. They started to kill poultry.

Q. How much poultry did they select? A. About three coops.

Q. Did they reject any of the three coops? A. Yes, sir.

Q. How much did they reject? A. Quite a bit.

Q. About how much? A. I would say around 30 heads.

Q. Around 30 heads? A. Right.

Q. That is about two-thirds of a coop? A. Right.

Q. Who was present at the time they selected and rejected the birds? A. They were all present.

Q. That is, Alex, Aaron and Martin Schechter? A. Right.

2327

Q. Did they say anything? A. I don't recall.

Q. Did they raise any objection? A. No, sir.

Q. And this poultry was purchased by the Wagshul brothers? A. Right.

Q. On that occasion? A. Right.

Q. What happened to the 30 or so heads that they rejected? A. Put them back into the coop.

Q. Then what happened to them? A. Then what happened to them?

Q. Yes. A. They remained in the coop.

Q. Were they fit for human consumption? A. Yes, sir.

2328

Q. What happened to them afterwards? A. Well, after who?

Q. After they were put into the coop. A. They remained in the coop.

Q. Until when? A. Until the next butcher came around to kill.

Q. Then what happened to them? A. We tried to give them that fowl that was left in the coop.

Q. Were they sold? A. Yes, during the course of the day.

Q. They were all sold during the course of the day? A. Right.

2329

The Court: How many chickens?

Mr. Rico: 30 rejected out of three coops; that is Count 24.

Q. Who was at the scales? A. Meyer Schechter.

Q. During this whole procedure? A. Right.

Q. What was Aaron Schechter doing? A. On the floor in charge of selling.

Q. He was present during these rejections? A. That is right.

Q. And Alex Schechter was also there? A. Right.

2530 Q. Now, on the following day——

The Court: That is 24 and 1, I suppose?

Mr. Rice: Yes, your Honor, all of our evidence, I believe, applies to Count 1.

The Court: And in addition, to certain substantive counts?

Mr. Rice: Yes.

Q. And on the following day, Mr. Cohen, on Thursday, June 21st—— A. That is right.

2531 Q. (Continuing)—what time did you arrive at the place? A. About 3:30 in the morning.

Q. 3:30 in the morning? A. Right.

Q. Who was present? A. Who was present?

Q. Who was present? A. Nobody then.

Q. Did anybody come later? A. Yes.

Q. Who? A. The three brothers.

Q. All three, Alex, Aaron and Martin? A. Yes, about half past four or quarter to five.

Mr. Rice: That is Count 29, your Honor.

The Court: All right.

2532 Q. Do you remember a customer, one of the customers coming in, from 304 Troy Avenue, coming in that morning? A. Yes, sir.

Q. What was her name? A. I just can't recall it.

Q. Is it Lena Halbar? A. That is right, something like that

Q. How much poultry did she buy that morning?

The Court: What was the name?

Mr. Rice: I think it is Lena Halbar, 304 Troy Avenue.

The Court: All right.

Q. How much poultry did she select? A. About three coops.

Q. Did she reject any? A. Quite a bit.

Q. How much? A. A good coop.

Q. At least a coop? A. Yes, sir.

Q. What happened to the coop of rejected chickens, that is, it wasn't just one coop that she rejected, was it? A. No, she rejected out of three coops.

Q. A total of one coop? A. Practically a total of one coop.

Q. Practically? A. Yes. 2534

Q. And what happened to the rejected chickens? A. They stood there.

Q. They were put in another coop? A. They were put into one of the coops that I pulled them out from.

Q. Were they fit for human consumption? A. Yes, sir.

Q. What happened to them after they were put into the coop? A. Well, they remained in that coop.

Q. Until when? A. And I tried the next customer. 2535

Q. Were they sold to the next customer? A. Not that cooop; they were sold during the course of the day.

Q. All of them? A. Practically.

Q. Were these three brothers, Alex, Aaron and Martin, present during the rejection of these chickens? A. Right, they were in the place.

Q. And during the later sale of the rejected chickens? A. Right.

Q. Did they raise any objection? A. Not that I know of.

Q. To the rejections? A. No, sir.

Q. Just what were you doing all this time? A. Handing out poultry.

Q. You were handling the chickens? A. Right.

Q. Did you hand any of them to one of the Schechter brothers? A. No, sir.

Q. Doesn't one of the Schechter brothers sometimes take hold of the chickens? A. Yes, once in a while.

Q. Which one? A. A good chicken.

Q. And did they all see what was going on during the sales of the chickens? A. That is right.

2537 Q. Meyer was standing right near the scale? A. Meyer stands near the scale.

Q. He weighs them all? A. Yes, sir, after they are killed.

Mr. Rice: The next count is Count 30, your Honor.

Q. On the same day do you recall Mr. Sam Tanowitz, a customer, 3303 Church Avenue, Brooklyn? A. You have got it wrong, Mr. Rice.

Q. What? A. You have got the wrong address.

2538 Q. What is the address? A. 5303 Church Avenue.

Q. Oh, yes, 5303 Church Avenue. A. Right.

Q. How much poultry did he select? A. About three coops.

Q. Did he reject any? A. Quite a bit.

Q. How much? A. I just can't recall.

Q. About how much? A. A good coop.

Q. About a coop in all? A. Yes.

Q. Were all three of the Schechters present during that time? A. Yes, sir.

Q. Did they raise any objection? A. Not that I know of.

Q. What did you do with the rejected chickens? A. Remained in the coop.

Q. Until when? A. Until later on.

Q. Then what happened to them? A. What happened with the coop or what happened afterwards?

Q. What happened to the rejected chickens? A. Well, when we got through with all the butchers it was a routine that we would put all the poultry together and fill up the coops as they go along; where there is a few chickens we fill up the same coop, make full coops out of them. That is just what we done that day.

2540

Q. Who helps you do that? A. Myself, my co-worker, or any one of the brothers.

Q. Do the Schechters help you? A. Yes.

Q. Which one? A. Al Schechter most of the time.

Q. Who else? A. The others I cannot recall.

Q. Did they all help you at some time or other? A. Yes.

Q. And they have done so since May 16, 1934? A. That is right.

Q. Were all of these rejected chickens fit for human consumption? A. Well, I wouldn't say all.

2541

Q. Were some of them? A. Yes.

Q. Were they later resold? A. Yes, sir.

Q. On the same day? A. Right.

Q. All of them? A. Pretty near.

Q. Pretty near all? A. Yes.

Q. Those that were not sold on that day were later sold, were they? A. Sold probably the next day.

Q. Were they all sold at some time or other? A. Yes.

Mr. Rice: The next is Count 25.

Q. On Friday, the following day, June 22nd, what time did you arrive at the place? A. 6 A. M.

Q. Were any of the Schechter brothers there that morning? A. Yes, sir.

Q. Which ones? A. Meyer, Abe, and I cannot recall if Al was there.

Q. You think Alex may have been there? A. Probably he may; I just cannot recall.

Q. Was he there later in the day? A. Yes.

2543 Q. Oh, he was? A. Yes, right after that.

Q. Were they all three there when the customer from 961 Blake Avenue arrived? A. Two, I am positive, was there.

Q. Which two are you positive were there? A. Meyer and Abe,

Q. How about Alex? A. I cannot recall that.

Q. What is the customer's name from 961 Blake Avenue? A. Don't know the name, but I think it is Albaum, or something like that; I just cannot recall. I don't know the name.

Q. Did he select some chickens that morning?

2544 A. Yes.

Q. How much? A. About four coop, three to four coop.

Q. Did he reject any? A. Yes, a few.

Q. How many? A. I don't recall how many.

Q. About how many? A. A handful or so. I cannot recall.

Q. What do you mean by a handful? A. Quite a bit.

Q. Half a coop? A. I wouldn't say half a coop.

Q. About how much? A. Close to it.

Q. Close to a half coop? A. That is right.

Q. Were the chickens rejected fit for human consumption? A. I wouldn't say all.

2545

Q. Were some of them? A. Yes.

Q. What was done with them? A. Same thing that has been done with the others.

Q. Were they later sold? A. Yes.

Q. All of them? A. Right.

Q. Were Meyer and Aaron Schechter present during this entire time? A. Yes.

Q. Did they raise any objection? A. No. He was the first man to kill that day, if I am not mistaken.

2546

The Court: Now, Meyer and Aaran were present?

The Witness: Right.

The Court: And Alex, you think, came in later?

The Witness: That is right, your Honor.

Q. On this particular occasion you don't remember the exact amount purchased? A. (No answer.)

2547

Q. Do you remember whether or not there were 45 heads selected? A. I canot recall that, Mr. Rice.

Q. You don't recall the occasion? A. No, because——

Q. You don't recall an occasion when this customer from 961 Blake Avenue took 45 chickens, selected 39 and rejected 6? A. I never counted them, Mr. Rice.

Q. You have made an affidavit on this topic, have you not? A. Yes.

Q. Will you look over the bottom half of this page of the affidavit, page 13, and see if you can refresh your memory as to the number? (Handing paper to the witness.) A. It must have been

2548 very unusual, Mr. Rice, if I mentioned the amount of heads taken out of that coop, because I never count the chickens taken out of any coop.

Q. After looking at this part of your affidavit do you recall how many chickens were selected by this particular customer? A. No.

Q. You don't know? A. No.

Q. But you are sure he rejected some? A. Yes; not all of them.

2549 Mr. Heller: What is the date of the affidavit, Mr. Rice?

Mr. Rice: The date of the affidavit, that is, it was sworn to on July 2, 1934.

Q. Did you state whether or not the rejected birds were later sold? A. Yes, sir.

Q. All of them? A. Right.

Q. During the course of the day? A. That is right.

Q. And some of them were fit for human consumption? A. Right.

2550 Q. Do you recall what time you came to work on Tuesday, June 26th?

Mr. Rice: This, your Honor, relates to Count 31.

A. On Tuesday, June 26th? 7 A. M.

Q. Who was present at the market that morning? A. The three brothers.

Q. Alex, Aaron and Martin Schechter? A. That is right.

Q. Were they present when the customer from 5303 Church Avenue came? A. Right.

Q. That customer is Sam Tanowitz? A. Right.

Q. How much poultry did he select? A. Two or three coops. 2551

Q. Did he reject any part of it? A. Yes, sir.

Q. How much? A. I cannot recall how much.

Q. Approximately how much? A. About half a coop.

Q. Were some of the rejected birds fit for human consumption? A. Yes.

Q. Were the three Schechter brothers present during the time of rejection? A. Right.

Q. And during the time of sale? A. Yes, sir.

Q. All of these transactions you have talked about were sales to retailers or butchers? A. Retailers and butchers. 2552

Q. Retailers and butchers? A. Dealers and butchers.

Q. Did any of the Schechter brothers raise any objection? A. Not that I know of.

Q. You did not hear any objection? A. No.

Q. What happened to the rejected birds? A. Back into the coop.

Q. How long did they stay there? A. During that day.

Q. Then what happened to them? A. I cannot recall if they were sold that day, if all of them were sold. 2553

Q. Were they sold during the course of the next few days? A. Yes.

Q. You are sure they were sold during the course of the week? A. Most surely.

Q. All of them? A. Yes.

The Court: Anything the matter with them?

The Witness: Not that I know of. There might have been one—a few of them.

Mr. Rice: The next, your Honor, is Count 32.

Q. On the same day do you remember Saul Levine coming into the place? A. That is right.

Q. How much poultry did he order? A. About three coops, two coops.

Q. Did he reject any part of it? A. Just a few.

Q. How much? A. Not very much.

Q. About how much? Less than half a coop?

2555 A. Yes, much less.

Q. Well, about how much? A. Probably about six or eight heads.

Q. Were some of the rejected birds fit for human consumption? A. I would not—I really don't know.

Q. I say, were some of them fit for human consumption? A. Yes.

Q. You understand what I mean? A. Yes.

Q. You are sure? A. Yes.

Q. Were Alex, Aaron and Martin Schechter present at the time of the rejections? A. They

2556 were always present, Mr. Rice.

Q. They saw what was going on? A. Yes.

Q. Did they make any objection? A. Not that I know of.

Q. What happened to the half a dozen rejected birds? A. Same thing, put back in the coops.

Q. Were they later sold? A. Probably.

Q. Well, were they later sold, either that day or within a few days? A. Oh, yes, within a few days.

Q. You are sure of that? A. Surely.

Q. From May 16, 1934, at the time the Code went into effect, up until July 26, 1934, that is

a period of two months or a little over, you were in the premises during that entire period you say? A. Right.

Q. Did you see any diseased birds in the place during that time? A. I did.

Q. A lot of it? A. A few.

Q. What do you mean by a few? A. Quite a few.

Q. Every day? A. Yes.

Q. Birds unfit for human consumption? A. I cannot get that question, Mr. Rice.

2558

Q. (Question repeated.) A. Yes.

Q. Those diseased birds you saw each day were unfit for human consumption? A. Some of them.

Q. Every day? A. Yes.

Q. Do you know whether or not those birds were sold? A. Yes.

Q. Always? A. Always.

Q. Do you know whether or not Alex, Aaron or Martin Schechter or anybody in the Schechter premises ever destroyed any of the live birds? A. Never destroyed them.

2559

Q. They never destroyed anything? A. That is right.

Q. You are sure about that? A. Positive.

Q. Under what circumstances would they destroy a chicken if any?

Mr. Heller: I object to that, your Honor, he said they were never destroyed.

Mr. Rice: I am speaking about the live birds.

Q. You say they never destroyed any live bird during that period of time, no matter how sickly or diseased or unfit it was?

Mr. Heller: I object to the form of the question.

The Court: He said he never saw them destroy any live birds.

Q. How about the dead birds, those that died a natural death? A. What do you mean, Mr. Rice?

Q. Did they ever destroy any dead birds, birds which had died from disease or from the heat or from some other natural cause?

2561

Mr. Heller: I object; there is no such testimony that such a thing happened.

The Court: That's right. He will have to give us some date.

Q. Do you know whether during that period of time from May 16, 1934, to July 26, 1934, there were any dead birds brought into the Schechter premises or were there any birds died in the coops after they got there? A. Yes.

Q. Do you know what was done with such birds?

2562

Mr. Heller: May we have a date, your Honor?

The Court: I think we should have it identified in some way.

Q. Do you remember any occasion during that period of time? A. Right.

Q. When was it? A. It was on a Friday.

Q. On a Friday? A. Yes.

Q. And was it June 29, 1934? A. I don't know the date, but I am positive it was on a Friday.

Q. But will you look in your calendar and see just about when it was? A. What day is that?

Q. June 29th. A. Yes, that is a Friday.

Q. And was it about that time? A. About what time?

Q. About June 29th, 1934? A. Yes.

Q. And do you remember the temperature on that day? A. Yes, it was a scorching hot day.

Q. And what else do you remember as to what happened on that day? A. I came back with a load of poultry from the Brooklyn commission and when I got into the place I seen about 10 broilers hanging, and their necks were slit. 2564

Q. You say it was a very hot day? A. Yes, sir, and when I got back I seen about 8 or 10 broilers hanging with their necks cut and the blood dripping down—about 10 broilers with their necks cut.

Q. Do you know whether or not those chickens had died before their necks were slit? A. I don't get that question.

The Court: Read it.

Q. I say, do you know whether or not those chickens had died before their neck were slit? 2565
A. Yes, sir.

Q. You know that? A. Yes, sir.

Q. What else did you see? A. Then I came in with my load of poultry and I found one or two dead chickens in my load.

Q. Yes? A. And I took them out and I put them on the floor and cut the neck on them.

Q. Did anybody tell you to do that? A. I didn't do that.

Q. Who did? A. Meyer Schechter.

Q. That is the third man in the gray suit (indicating defendant Meyer Schechter)? A. That's right.

2566 Q. Who told you—what did he do? A. He done it himself.

Q. The chicken was dead? A. Right.

Q. And what did he do with the chicken after he cuts its neck? A. He hung it up.

Q. Along with the others? A. Along with the others.

Q. And those others came from Danziger's load? A. No, they came from a third man that was there that week.

Q. Was Danziger present during this time?
2567 A. Right.

Q. And he saw these dead chickens hanging up there? A. Yes.

Q. Then what happened? A. Well, we quit at four o'clock. Before that we weighed up the broilers and the two fowl, I don't remember what the fowl weighed, but the broilers I think weighed around 32 pounds—they were small chickens——

Q. By the way, you did not tell us how you knew that the other chickens had died before their necks were slit—did anybody tell you that?
2568 A. Yes.

Q. Who told you? A. My co-worker, Danziger.

Mr. Heller: I move to strike out the entire testimony, your Honor.

The Court: No, but I will strike out all about their being dead before their throats were cut.

(To witness): Now, Mr. Witness, you cannot tell us anything that anybody said to you except one of the Schechters. It it is anybody else, don't tell us a thing.

Mr. Rice: This applies only to the chickens he did not see, your Honor.

The Court: Certainly.

Q. Did anybody of the Schechters say anything about those chickens? A. I cannot recall.

Q. Did you talk with Meyer Schechter? A. Right.

Q. What did he say? A. I cannot remember.

Q. Now then, what happened after that? A. We had packed them up into a bag.

Q. And who packed them up? A. Abe Danziger and myself. 2570

Q. All these chickens that were hanging up there? A. There was only a few—about 10.

Q. Did anybody tell you to do that? A. Yes, Meyer Schechter.

Q. Then what did you do? A. We locked the place up and put the bag in his car and he went away.

Q. And before he went away did he call anybody? A. Right.

Q. On the telephone? A. Yes.

Q. Who? A. One of the Wagshaul brothers. 2571

Q. And then he went away with the chickens in the bag? A. Yes, and we went home.

Q. Were the chickens weighed before they were taken out? A. I think they were.

Q. Why do you say you think they were? A. Yes, they were.

Q. They were weighed? A. Yes.

Q. About how much did they weigh? A. About 32 pounds of spring chickens.

Q. Mr. Cohen, what was done, or what has been done during that period from May 16th to July 26th, 1934, with poultry unfit for human

2572 consumption? You have said that it was sold, who was it sold to?

Mr. Heller: He didn't testify to that at all, and I object to the characterization of his testimony.

Mr. Rice: He said definitely, he definitely said that it was all sold and none of it was destroyed.

The Court: He said that, and I said that he must give us days and names. We cannot have just general statements. Let us have the dates and names. Go ahead, tell us any other occasions if you want.

2573

Q. Do you remember any other occasions? A. I didn't get that question.

Q. Do you remember any occasions after May 16th and before July 26th, 1934, when diseased unfit poultry was sold by the Schechters?

Mr. Heller: I object to that, there is no such testimony, and I object to counsel characterizing it.

2574

The Court: Oh, yes, he made the general statement and I am keeping him now down to the specific date. If he does not know the date, if he can't recall it, that is one thing, but if he knows it he can give us the dates.

Q. Answer the question. A. Yes, sir.

Q. When? A. During all that time.

The Court: No, that isn't it, tell us some people to whom it was sold.

The Witness: To whom?

The Court: Yes.

The Witness: We had quite a few of them, do you want the names of them?

The Court: Yes, tell us when it was sold and about when it happened.

The Witness: Wagshaul Brothers is one that buys them.

Q. They buy the unfit chickens you mean? A. That is right. Stauber, 1753 Prospect Avenue is the second one, 583 Blake Avenue is a third one. That is just about all that I can remember.

Q. How often are these unfit diseased chickens 2576
sold?

Mr. Heller: I object to that, your Honor.

The Court: How often did they sell them to these people that he has mentioned?

The Witness: Yes.

Q. Yes, to these people. A. Very often during the week.

Q. How often? A. About twice, three times a week. 2577

Q. During all of this period from May 16th to July 26th? A. Yes.

Q. You say that they destroyed no live chickens? A. No.

Q. Sold them all? A. Nothing was destroyed; nothing is destroyed even at this present time.

Q. About how much do they sell these unfit chickens for to these particular people at the time that you designated? A. Seven, eight, nine, ten cents, whatever they can get for them.

Q. When the market is 14 cents on the regular poultry market, how much do they get, about, for this unfit poultry?

Mr. Heller: I object to the form of that question; let him state on a specific date what the market price was, and what they sold them for.

The Court: He can state as near as he can, he has given us the people.

Mr. Heller: Yes.

Q. Tell us as near as you can. A. What was the question?

2579

The Court: What was the difference, as near as you can give it to us?

The Witness: I can't do that, your Honor; I can't.

The Court: What was the market price during this time?

The Witness: We never follow up the market, your Honor.

The Court: Then you do not know the market?

The Witness: That is right.

2580

Q. Do you know about how much these people paid for these unfit chickens? A. I said from 7 to 10 cents.

Q. Did they pay 7 to 10 cents per pound or were some other arrangements made? A. Per pound.

Q. Was there any arrangement, any other arrangement made by Alex, Aaron and Martin Schechter with these customers as to the number of pounds? A. Not that I know of.

Q. Did they ever sell them at the full price for regular poultry, but cut the poundage in half?

Mr. Heller: I object to the suggestion of counsel.

2581

The Court: Yes, he said he didn't know; you ought not to lead him. Let the witness testify.

Mr. Rice: I thought I had exhausted his memory on that.

The Court: I do not know; he said he didn't have any.

Q. What arrangements are made or what arrangements were made during that period with these particular customers by the Schechters? A. I didn't see any arrangements made by the Schechter brothers and the customers, but what I did see on some occasions on the ticket where there would be two or three hundred pounds of poultry that was unfit, he would put it down say at 14 cents, and at the same time the party on the other end would know it is half of that.

2582

Mr. Heller: I object to what the other party would know.

The Court: Yes, strike out what the other party knew.

Q. You said on the ticket when it was how many pounds? A. Two hundred pounds.

2583

Q. All right; 200 pounds sold? A. Yes, sir.

Q. What would the ticket show as to the number of pounds sold? A. Fourteen cents.

Q. But how many pounds? A. Two hundred pounds.

Q. How many pounds would have been sold on that occasion?

Mr. Heller: I object to what would have been done; let him specify it. We are met here with generalities that we will never be able to bring any witnesses on.

2584

The Court: That is correct; the jury will disregard that. He has already told us that they put on 200 pounds at 14 cents, and then he surmises that something else happened.

Q. Do you know how many pounds were actually included in such sales?

Mr. Heller: He said 200 pounds.

The Witness: Around 200 pounds or more or less; I just can't state.

2585

Q. Is that the number of pounds shown on the ticket? A. Yes.

Q. Or the number of pounds actually sold? A. The number of pounds shown on the scale.

Q. On the scale? A. Right.

Q. And then do you mean that the customer paid 14 cents, or actually paid only 7? A. 7.

Mr. Heller: I object to that. He said what the ticket shows.

The Court: Yes; he can state what he knows, but that isn't right. The jury will disregard that because he said just a moment ago that he was surmising what the customer did, he didn't know it.

2586

Q. Well, now, do you know——

The Court: If he saw the payments made on any of those occasions, all right.

Q. Do you know what happened on these occasions? A. In reference to what?

The Court: Did you see the payment made for these unfit chickens?

The Witness: No, sir.

2587

Q. Did you see the amount of poundage recorded on the ticket? A. Yes.

Q. Was that the number of pounds actually sold? A. Yes.

Q. Did they record the amount, did they record the precise weight on the tickets? A. Full weight, what the scale called for.

Q. But you say this unfit poultry is generally sold to these particular customers? A. That is right.

Q. During that time, at 7 or 8 cents a pounds? 2588
A. Right.

Q. Do you know what class of people——

Mr. Heller: He only surmised that.

The Court: No, he said that long before, he said it was sold at from 7 to 10 cents a pound.

Mr. Heller: All right.

Q. Do you recall Thursday, June 28th, Sam Tanowitz of 5303 Church Avenue, came to the Schechter Market? A. Right.

Q. Who was present at that time? A. All 2589
three brothers.

Mr. Rice: This is Count 26, your Honor.

Q. Alex, Aaron and Martin? A. Right.

Q. How much poultry did Tanowitz order? A. About three coops.

Q. Did he reject any? A. Yes, quite a bit.

Q. How much, about how much? A. Close to a coop.

Q. Were there some fit poultry among the poultry rejected? A. Yes.

Q. Were all of the Schechters present at the time of the rejection? A. Right.

2390 Q. Did they raise any objection? A. Not that I know of.

Q. What happened to the rejected chickens? A. Back in the coop.

Q. Then what happened to them? A. Sold during the course of the day or probably the next day.

Q. They were sold? A. Yes.

Q. Either that day or the next? A. Yes, sir.

Q. On that same day at what time did you arrive in the morning? A. About three thirty.

2391 Mr. Rice: This will relate to Count 35, your Honor.

Q. Did you see anybody from the Code Authority there on that day, that is, Thursday, June 28th? A. On that day?

Q. Yes, on that day. A. Yes.

Q. Who? A. About five minutes to five I had seen Mr. Alampi.

Q. Alampi? A. Right.

Q. What did you see? A. I have seen he was coming into the place.

2392 Q. You say Alex, Aaron and Martin Schechter were all there? A. Right.

Q. Was there any conversation between Alex, Aaron and Martin Schechter on the one hand, and Alampi on the other, anything said? A. Yes.

Q. Tell us everything that was said? A. Plenty.

Q. Tell us everything, just the way it was said. A. (No answer.)

Q. Just tell us what happened when Alampi came in.

The Court: Wait now, we will have it. What each one said.

The Witness: I wish you would not insist, Mr. Rice.

The Court: Come right along. Don't be bashful. Come right along.

Q. Face over this way to the jury, Mr. Cohen. What was said? A. (No answer.)

Q. Alampi came into the place and what happened? A. He did not come into the place.

Q. What happened? A. Just about when he 2594
was coming in.

Q. Yes?

The Witness: Your Honor——

The Court: Come along and tell us who said anything and what they said and what they did.

Q. There is nothing funny about this, Mr. Cohen.

Mr. Heller: Did I understand all this happened outside of the premises? 2595

The Court: He said just as he was trying to come in.

The Witness: By the door.

Q. Did all three of the Schechters—all three of the Schechters were at the doorway there? A. Yes.

The Court: Who first said anything?

The Witness: Abe Schechter.

The Court: What did he say and to whom?

The Witness: To Mr. Alampi.

2596 Q. What did he say? A. Called him a son-of-a-bitch and everything else that went with it.

Q. Tell us just what was said. A. Mr. Rice, I cannot say it.

The Court: Go ahead.

The Witness: Your Honor, I will not state it.

The Court: After that preliminary, what did he then say?

The Witness: He wouldn't let Mr.

2597 Alampi in, the three of them.

Q. What did they talk about, did they talk about Mr. Peterson? A. Yes.

Q. What was said? A. He called him all kinds of names.

Q. What did he call him? A. Bastard and son-of-a-bitch and everything else.

Q. Who called him that? A. Abe Schechter, Meyer Schechter.

Q. And Alex Schechter? A. Alex, I wouldn't recall.

2598 Q. Was Alex standing there? A. Probably, yes.

Q. What else did they say about him? A. To hell with the Code Authority, and going to pack up Peterson in his grip and ship him back to Washington.

Q. Anything else? A. Racketeers and everything else.

Q. Called who racketeer? A. Mr. Peterson.

The Court: Come along, let us have the story now. You have gotten through with the preliminaries that you did not want to state. Now tell us what was said. Come on along.

2599

The Witness: Your Honor, I cannot.

Q. Tell us in your own words. It will take less time, Mr. Cohen. You just tell the entire conversation.

The Court: You have gotten through with the swear words. No go ahead and tell us the rest, what was said.

The Witness: That is the names he called him, your Honor.

The Court: All right, the names we have gotten and all that; what else did they say?

2600

The Witness: He was going to pack him up to Washington, or going to ship him with his grip, and called him different names, racketeering and everything else, that they are the ones that racketeer—that are racketeers in this business.

Q. That is, that Peterson and Alampi were the racketeers? A. Yes, Peterson and the entire Code Authority.

2601

Q. What did Alampi say? A. I really did not hear what Mr. Alampi has said to them because——

Q. Did he say he wanted to come in? A. Yes, he wanted to come in.

Q. Did he rap at the door? A. No, the door was open.

Q. What did he do, did he stick his foot in the doorway? A. Yes.

The Court: Come on and tell us. Why do we have to ask so many questions?

The Witness: Oh, your Honor, that is all I have heard, because I went in on the

2602 inside and started killing poultry with the butchers; all I have heard are those names.

Q. Did Alampi say he wanted to come in? A. Yes.

Q. What did they say, what did Abe, Meyer and Alex Schechter say? A. Abe will not let him.

The Court: What did they tell him? What did they say to him, if anything?

2603 The Witness: Call him, "you son-of-a-bitch," that is what he called him.

The Court: Is that all that was said to him?

The Witness: And then he started with the Code Authority, "dirty bastards," "Mr. Peterson is going"—he is going to pack Peterson up and send him back to Washington, racketeering; and they are the racketeers, they are the racketeering people, the entire Code Authority.

2604 Q. Did he say anything to Alampi? A. Yes, he says, "What the hell do you know about chickens?"

Q. What did Alampi say? A. I don't know what he said. I went in on the inside then after that.

Q. Did they say anything as to Alampi? A. I don't know as to that.

Q. Did they tell him to come in? A. No, they won't let him in.

Q. What did they say about coming in? A. Keep to hell out.

Q. Anything else? A. That is all I know of.

Q. Who said that? A. Abe Schechter.

Q. On that same day, that is June 28th, Thursday, 1934, do you remember whether anybody else came into the place? A. Yes.

Q. Who? A. About 11 A. M. Dr. Gardner and Mr. Forsmith came into the place.

Q. Yes; what happened? A. They walked up in back of the market and they came back towards the front.

Q. What was said? A: Nothing said.

Q. Did Mr. Forsmith say, "Have you any culls here?" A. Yes. 2606

Q. Did anybody answer him? A. I think Al Schechter answered him.

Q. Were Abe and Meyer present? A. Abe, I am not sure. Meyer was present, Meyer and Al.

Q. What did Alex say? A. Told him there is none.

Q. Told him there isn't any? A. Right.

Q. Then what was done? A. Then he walked back Dr. Gardner.

Q. Who? A. Mr. Forsmith.

Q. What did he do? A. Walked back in the back room, found about three or four chickens. 2607

Q. Wasn't it about six or eight? A. Well, I seen him bring up three or four birds towards the front.

Q. What sort of chickens, were they healthy or unfit chickens? A. Unfit.

Q. What was done with them? A. Destroyed.

Q. Upon direction of Dr. Gardner? A. Dr. Gardner destroying them.

Q. Did they look around thoroughly to find other unfit chickens? A. They did.

Q. Forsmith and Dr. Gardner? A. Right.

Q. Did they find all of the unfit chickens in the place? A. No.

2608 Q. Which ones didn't they find? Speak up and tell us everything in your own words? A. Well, that is all they found, Mr. Rice, is that three or four chickens.

Q. Were there some other unfit chickens in the place? A. Yes.

Q. Tell us about it. A. There was a whole coop, a full coop stacked up on the top.

Q. Of chickens unfit for human consumption? A. Right. I would not say all of them, but the majority.

2609 Q. And Forsmith and Gardner did not find them? A. That is right.

Q. And they were not condemned? A. Right.

Q. What happened to that coop of unfit chickens? A. Killed off.

Q. And sold? A. Right.

Q. That day or the next day? A. I just cannot recall whether it was that day or the next day.

Q. Within the week? A. Within them two days.

Q. They were all sold? A. Yes.

2610 Q. What happened after——

Mr. Rice: This next related to Count 36.

Q. (Continuing) What happened after Dr. Gardner had condemned the chickens on that day? A. What happened after—then they got into an argument.

Q. Who? A. Al Schechter, Meyer Schechter, Dr. Gardner and Mr. Forsmith.

Q. What happened? A. The same thing started all over again, about the Code Authority.

Q. Well, what did Alex, Martin and Aaron say? Were they all three present? A. No.

2611

Q. Which one was missing? A. Aaron Schechter.

Q. What did Martin and Alex say? A. That the Code Authority is railroading him.

Q. What else? A. Before you know it, that is, speaking to Mr. Forsmith, before you know it I will pick up that son-of-a-bitch and ship him back to Washington.

Q. Who? A. Mr. Peterson and the entire Code Authority.

Q. Who said that? A. Al and Meyer.

2612

Q. Both of them? A. Right.

Q. What else did they say? A. Different other vile names, called——

Q. What did they call him? A. Bastard and son-of-a-bitch and everything.

Q. Who did they call that name or those names? A. Mr. Peterson and the entire Code Authority.

Q. Did they call Forsmith any names? A. Not that I know of.

Q. What did they do to Forsmith? A. They told him he is railroading them with Dr. Gardner.

2613

Q. What did Forsmith do?

The Court: What was that?

The Witness: He is railroading him.

Q. What did Forsmith do? A. He went into the office with them, and he tried to cool down.

Q. Was Forsmith polite to them? A. Yes.

Q. Did Forsmith use any bad words? A. No, he told them "Don't get excited."

Q. Well, what did Alex and Meyer do after Forsmith went into the office? A. I did not follow him into the office, but I heard him hollering; what it was, I don't know.

Q. You heard them hollering? A. Yes.

Q. At whom? A. One another.

Q. You mean at Forsmith? A. Right.

Q. And did they talk to Dr. Gardner? A. Yes.

Q. Both Alex and Meyer? A. Yes. They told him that the Code Authority is railroading them, and the same thing all over again, Mr. Peterson and the entire Code Authority.

Q. Did they do anything—did Forsmith and Dr. Gardner try to leave? A. Yes.

2615 Q. What happened? A. I just cannot recall what happened; I know Meyer Schechter and Al, the two of them were nervous.

Q. What do you mean they were nervous? A. They were on the verge of striking somebody, Forsmith or Gardner.

Q. And why do you say they were on the verge of striking somebody? A. They were all excited.

Q. Did Forsmith and Dr. Gardner try to leave? A. Yes.

Q. And did they leave? A. They could have left.

2616 Q. Did anybody stand around them when they tried to leave? A. Al and Meyer Schechter; he told them he won't let them leave until he takes them to his own market and shows him where he has unfit poultry in his own place.

Q. To whom did he say that? A. Forsmith.

Q. And did they stand around Dr. Gardner too? A. Yes; the four of them was around together.

Q. Did Dr. Gardner try to leave? A. They won't let him leave, they wanted to take him along.

Q. Did they ask him anything about the F. F. A.? A. I don't know that.

2617

Q. Or about the certificate that he was making out, about finding the diseased chickens there? A. I cannot recall now, Mr. Rice.

Q. Did you hear anybody tell Forsmith or Dr. Gardner that they could not leave until they gave the Schechter brothers an O. K.? A. Right.

Q. What did they say about that? A. Al Schechter said he won't let them go until he gives them the O. K. Dr. Gardner is going to make out a summons, and then Al Schechter got excited and told him he won't accept it and he won't let him go until he O. K.'s that ticket.

2618

(Ten-minute recess.)

Q. Mr. Cohen, did you have any conversations with Joseph Schechter between May 16th and July 26, 1934? A. Yes.

Q. This is Joseph Schechter, the first one here at the table? A. Right, once in a while.

Q. Several times during that period? A. Yes, while going home.

Q. While going home? A. Right.

2619

Q. What did he say to you?

Mr. Heller: Just a moment; let us have the month, the day and the place.

The Court: That is right. He has given the place and the person with whom he is talking; he will identify the time.

The Witness: I can't recall the date.

Q. Did you have a conversation with him shortly after May 16, 1934? A. Yes, sir.

Q. What did he say to you? A. While going home, he lives in my neighborhood, I have gone home with him quite a few times, and during the

time from the time we have left the market until the time I reached my house, we would talk about the Code and the Code Authority and the entire industry. He remarked he could not see where he was violating the Code, and he brought up an instance where, with Henry Ford practically doing the same thing, living up to the Code rules and not violating the Code.

Q. Did he brag to you about anything? A. Yes.

2621 Q. What did he say? A. "I don't give a damn for the Code."

The Court: I can't hear you.

The Witness: "I don't give a damn for the Code; it isn't worth anything."

Q. What else did he say? A. That is all I can recall.

Q. Did he say anything about violating the Code? A. No.

Q. Did he brag that he wasn't living up to the Code? A. No.

2622 Q. Did he boast about anything? A. Yes, sir.

Q. What did he boast about? A. About the Code, that it wasn't worth a damn.

The Court: About what?

The Witness: About the Code.

Mr. Heller: He said it isn't worth a damn.

The Court: Is that all?

Q. What else? A. That is all.

Q. Did he say anything about having a lawyer? A. Yes.

Q. What did he say? A. If there is any trouble coming he is prepared for it.

2623

Q. Did he say anything else? A. That is all I can remember, Mr. Rice.

Q. Did he say anything about doing as he pleased?

Mr. Heller: I object to the form of the question.

A. I can't recall that.

The Court: I guess you withdraw the objection.

Mr. Heller: Yes.

2624

Q. Will you look at this middle paragraph on page 20 of your affidavit; read that and see whether it refreshes your memory? A. Yes, I have stated that, Mr. Rice.

Q. I do not think you have stated everything in there; did you? A. Yes.

Q. Well, tell us again. I do not believe you did. You may have thought you did. A. You ask me the question.

Q. What did Joe Schechter tell you? A. He is prepared for all the trouble, "I have a lawyer already prepared. If there is any trouble from the Code, I have a lawyer working on the case."

2625

Q. Did he brag that he didn't care about the Code and Code Supervisor, and that he would do as he pleased? A. Yes.

Mr. Rice: That is all.

Cross examination by Mr. Heller:

Q. Now, Mr. Cohen, you are at this moment employed by the Schechter firm at 858 East 52nd Street? A. Yes, sir.

2626 Q. You intend to go back there to work tomorrow morning? A. I do not know, sir.

Q. You haven't been fired today, have you? A. I might.

Q. Has anybody told you that you shouldn't go to work tomorrow? A. No, sir.

Q. You intend to go to work tomorrow morning, do you? A. Yes, sir.

Q. You have been working right up to this moment there, haven't you? A. Right.

Q. Received your pay? A. Sir?

2627 Q. Have you received your pay? A. Yes.

Q. For the work you have done? A. Right.

Q. And did I understand you to say that you were a laborer, on direct examination? A. An inside man, yes, do laboring work.

Q. You earned as much as $90 a week at the firm? A. Right.

Q. Have you earned as much as $70 a week? A. Yes.

Q. What is the lowest pay you ever—what is the lowest pay you get every week on an average, what is the lowest you ever earned? A.

2628 $55.

Q. And chickens in addition to that? A. Right.

Q. Take them home with you, don't you? A. Yes.

Q. Never any trouble about being paid for your work? A. No, sir.

Q. Have you ever—if you need an advance, you get it? A. Sometimes.

Q. During the week? A. Right.

Q. Before pay day? A. Right.

Q. You are the secretary of a union, are you not? A. Right.

Q. Do you know that there—I will withdraw

that. During these incidents that you speak of, when the three Schechter brothers were present, about the selection of chickns on the dates mentioned by you on direct examination, did I understand that they were the only three present with you? A. What dates was that?

Q. All the dates that you mentioned with reference to the selection of chickens.

Mr. Rice: If your Honor please, I should like to interrupt this witness' cross examination to put a very short witness on. I think it will take only a minute. 2630

The Court: If Mr. Heller does not object.

Mr. Heller: No, no, I don't object.

The Court: Do you want this witness to stay in or go out?

Mr. Heller: Yes, he may stay in.

(Witness temporarily withdrawn.)

ROBERT LENHART, called as a witness on behalf of the Government, having been duly sworn, testified as follows: 2631

Direct examination by Mr. Rice:

Q. Mr. Lenhart, you were an investigator for the Live Poultry Code Authority on June 25, 1934? A. Yes, sir.

Q. On that day did you go to Joe Schechter's market? A. I did.

Q. 991 Rockaway Avenue, Brooklyn? A. That is right.

Q. Was Joseph Schechter there? A. Yes.

Q. While you were there? A. Yes, sir.

2632

The Court: What date was that, please?

Mr. Rice: June 25, 1934. This is Count 28.

Q. Were you there when Rabinowitz, a customer from 508 New Lots Avenue, Brooklyn, came to purchase poultry? A. I remember the address; the name I did not get.

Q. Was that the address of the customer? A. That is the address.

Q. About how much poultry did he select? A.

2633 He looked over 24 birds and bought 20; 4 he rejected.

Q. He selected a half coop? A. That is right.

Q. And rejected 4? A. 4 of those birds were rejected.

Q. Were some of the 4 rejected birds fit for human consumption? A. In my opinion, yes.

Q. What was done with the 4 rejected birds? A. At the time they were rejected, they were put in an empty coop and later put in with other birds and offered for sale.

Mr. Rice: That is all.

2634

The Court: Wait a minute. You have not identified him very well. Do you know any identification of the customer at all?

The Witness: Only his address.

The Court: What was it?

The Witness: 508 New Lots Avenue.

Q. You don't remember whether his name was Morris Rabinowitz? A. No, sir.

Mr. Rice: That is all.

Cross examination by Mr. Heller:

Q. What was your employment prior to your employment with the Code Authority? A. I was employed in the State Institute of Applied Agriculture, Farmingdale.

Q. You were engaged in an institution? A. At Farmingdale, yes, sir.

Q. Farmingdale, New York? A. That is right.

Q. As what? A. I was working for the farm superintendent.

Q. You work now for the Code Supervisor? 2636
A. No, sir.

Q. Lost your job? A. No, I quit it.

Q. Quit yourself? A. Yes, sir.

Q. At the time the selection of chickens was made did you inspect the box or crate from which the chickens came? A. Did I inspect it?

Q. Yes. A. I looked at it, yes.

Q. Did you see the label showing that the merchandise was inspected? A. No, sir, I did not.

Q. Did you look for it? A. I did not look for it.

2637

Q. You don't know whether it was or not? A. I don't.

Q. And did you examine the birds that were rejected by the customer? A. I did.

Q. You personally? A. Yes.

Q. What did you find wrong with them? A. Nothing.

Q. They were good, healthy poultry? A. Yes, I believe they were.

Mr. Heller: That is all.

Mr. Rice: That is all.

(Witness excused.)

2638 SAMUEL COHEN, resumes the stand:

Cross examination (continued) by Mr. Heller:

Q. Now, Mr. Cohen, is there anything unusual about packing or repacking of poultry, any suspicious circumstance attached to that? A. No.

Q. Sometimes the poultry is packed too tightly in a box? A. Right.

Q. Too many birds in one box? A. Right.

Q. So that you take them out and put them in another one? A. That is right.

2639 Q. There is nothing unusual about that circumstance, is there? A. No, sir.

Q. That is done every place, is it not? A. Yes.

Q. Now, Mr. Cohen, I understood you to say you were secretary of the union and that as secretary of the union you made a memorandum of the poundage of poultry purchased or sold, is that correct? A. I did not.

Q. What was your duty, what did you do? A. I have kept a record of how many coops come in.

2640 Q. That is all you did? A. Not the poundage.

Q. You did not take the poundage? A. Right.

Q. Just the number of coops? A. Right.

Q. Count the birds? A. No.

Q. Just the number of coops? A. Right.

Q. That is all you were called upon to do? A. Right.

Q. By your union? A. Right.

Q. Nothing else? A. Nothing else.

Q. They did not ask you to look to see whether there were any labels or not? A. No, sir.

Q. That was not part of your function? A. No, sir.

2641

Q. Was there anything peculiar about the baskets that came in that forced you or compelled you to find out whether any inspection labels were attached? A. I did not get that question.

Q. Did anybody tell you to look for labels? A. Nobody told me.

Q. You did that of your own accord? A. Right.

Q. You examined each and every basket? A. Right.

Q. How much time did you take to do that? A. Just a few minutes.

2642

Q. How many baskets did you look at? A. 82 baskets.

Q. Did you examine each and every one? A. Looked them all over.

Q. Feel every one? A. No.

Q. Turned them around? A. No.

Q. Just made a general view of them? A. Yes.

Q. Let your eyes go over it? A. Right.

Q. Then you determined for yourself they were not inspected? A. Right.

2643

Q. You did not see the poultry come in yourself, did you? A. No, sir.

Q. You assumed they were uninspected because you did not find a label? A. That is right.

Q. Is that the idea? A. Right.

Q. You cannot say for sure whether they were there or not, except from your observation of the baskets? A. Right.

Q. Is that correct? A. Yes, sir.

Q. You did not bring it in yourself? A. No, sir.

Q. Now, among your duties do you go out with a truck? A. I do.

Q. Occasionally? A. No.

2644 Q. How many times a day? A. Some days I don't go out at all.

Q. Some days you do? A. Very seldom.

Q. How long do you stay away from the plant? A. A few minutes.

Q. With a truck? A. Yes, unless I go to the market.

Q. The West Washington Market? A. Right.

Q. Now, how many miles is that from 858 East 52nd Street? A. I don't know.

2645 Q. 858 East 52nd Street is in the Borough of Brooklyn? A. Yes.

Q. And West Washington Market is in the Borough of Manhattan? A. Yes.

Q. And that place is out in the sticks in Brooklyn? A. I don't know whether it is the sticks or not, but it is in Brooklyn.

Q. East Flatbush? A. The Rugby section.

Q. That is why they call this place the Rugby Market, isn't it, because the place is known as the Rugby section? A. I know it is known as the Rugby section.

2646 Q. And that is the reason that this place is called the Rugby Poultry place? A. I don't know if that is the reason.

Q. Now, most of the poultry comes in on a truck from the West Washington Market? A. Or from the New York Central Yard.

Q. Most of it? A. Yes.

Q. Pretty near all of it? A. Not all of it, but the majority.

Q. And occasionally some comes in from elsewhere? A. Yes.

Q. Those are the rare occasions? A. Yes.

Q. When the market is scarce? A. Yes.

2647

Q. And when the supply is limited? A. I don't get that quite clear, Mr. Heller.

Q. Do you know whether the poultry coming into West Washington Market and the 60th Street Railroad Yard is inspected poultry? A. Yes. And also from the other railroads.

Q. Always inspected? A. Right.

Q. No question about it? A. Right.

Q. And the poultry that was sold on the occasions June 22nd, June 28th, June 25th, June 24th, and June 26th, that was inspected poultry, was it not? A. Give me one date at a time, Mr. Heller.

2648

Q. Do you know—I will put it this way: Do you know from your own knowledge whether any of the poultry sold to people that selected them, that you described on direct examination, was poultry that did not come in from the West Washington Market or the 60th Street Yard? A. Right.

Q. Everything came in from there? A. With the exception of the Friday's poultry.

Q. Which day is that, May 25th? A. May 25th.

Q. Now I am talking about the month of June. A. I cannot recall that.

2649

Q. All the poultry that you testified to on direct examination that was selected by these various customers, when they rejected some, that came out of the crates that were inspected?

Mr. Rice: Now, just a moment. Let us see whether this witness knows if this poultry was inspected. We have confined our direct examination to those instances where this witness has direct knowledge. I think a foundation should be laid to show whether or not Mr. Cohen has any direct

2650 personal knowledge as to whether this poultry was inspected or not.

The Court: He can cross examine him, and if he does not know, he can so state.

Q. Do you know? A. Ask me that question again.

The Court: Read it.

(Question repeated by the reporter.)

A. The date when?

2651 Q. All the time in the month of June. A. June 6th.

Q. That is the poultry you speak of sold to Wagshaul brothers and Stomberg, that came out of a box that was selected? A. Right.

Q. But they were rejects, is that correct? A. Right.

Q. In other words, you claim that the customer came in and wanted two or three coops of chickens, rejected some and took the others, and those rejected ones were put in another box? A. Probably not in another, probably the same box.

2652 Q. The box that they came out from were chickens that had already been inspected by the Government? A. Yes.

Q. Now, do you make a study of the diseases, and their nature, in so far as they apply to chickens? A. Did I make a study of diseases?

Q. Yes. A. Well, I can tell a sick bird.

Q. You mean from experience? A. Yes.

Q. From your long time of experience? A. Yes.

Q. In other words, by examining a chicken and looking at it you can tell whether the chicken is sick or not? A. Right.

Q. And you can diagnose what disease the

chicken suffers from? A. I cannot diagnose the disease, but I can tell a pretty sick bird.

Q. Do you know whether it is cancer by looking at it? A. No, sir.

Q. And do you know whether it is cholera by looking at it? A. No, sir.

Q. You cannot tell that? A. No.

Q. What you can tell is probably that it has a cold? A. Yes, sir.

Q. And that is about the limit of about what anyone can tell? A. Yes.

2654

Q. Do you know that you do not get sick from eating a chicken that has a cold?

Mr. Rice: I object; this witness is not qualified as an expert witness. We have not used him for the purposes of proving the sale of any particular cull.

The Court: No, but he has testified that it was fit or unfit for human consumption, and Mr. Heller has a right to know what he bases that on.

2655

Q. Do you know whether a person can eat a chicken that has suffered from a cold, without getting sick, do you know that of your own knowledge? A. Not only from a cold you can't.

Q. He cannot get sick, can he? A. No.

Q. So when you speak of chickens unfit for consumption you mean culls, don't you? A. Culls and——

Q. And a cull is known in the trade as a lean chicken? A. No, a poor chicken, a bad chicken.

Q. Now, what do you mean by a bad chicken? A. A sick chicken, a bad chicken.

Q. What do you mean by a sick chicken? A.

2656 *Samuel Cohen—By Govt.—Cross*

Eyes swollen, wings broke, bruised, hernia, and stuff coming out of the nostrils.

Q. That is a cold? A. I don't know that it is.

Q. Do you know what it is? A. I know one thing, it is not a well chicken.

Q. Well, then, confining yourself to a sick chicken as one being thin, or with a broken wing, or a broken leg and a bad cold——

Mr. Rice: If your Honor pleases, that is not the witness' testimony.

2657 The Court: He did not say that.

Q. Does it make any difference whether the leg is broken or a wing is broken? A. Practically the same.

Q. Those are termed culls, or, as you call them, diseased chickens? A. Yes.

Q. Can you get sick from eating a chicken that has a hernia? A. I never tried it.

Q. You know what a hernia is in a chicken? A. Sure.

Q. What does it mean? A. A rupture.

Q. The same as a broken wing? A. No.

2658 Q. It is in a different place? A. Right.

Q. And that is all the difference there is? A. That is all.

Q. Now, these chickens that were rejected, that you claim were diseased, or culled chickens, were put into different boxes? A. Correct.

Q. And some other customer came along and bought those chickens? A. Not all of them were diseased.

Q. Well, what you call diseased chickens? A. Naturally, these chickens that was rejected were put back in a coop.

Q. These chickens that you described as dis-

cased chickens were put back in a coop? A. I don't describe any diseased chickens.

Q. Or culls; do you wish to change your testimony?

Mr. Rice: If your Honor pleases, this witness confined his testimony on direct examination to chickens unfit for human consumption, he did not mention the word cull. It is quite possible that the word culls may have a broader meaning and include seconds. 2660

Q. All right, those unfit chickens you described as containing those elements that you told the stenographer a minute ago

Mr. Rice: May we have it understood that an unfit chicken is a chicken unfit for human consumption?

Mr. Heller: I can only understand it as it is claimed by this witness, unfit chicken.

Q. Now, these unfit chickens with a broken wing or a broken leg, or swollen eyes, are put in a separate coop? A. Right. 2661

Q. Those very chickens have come out of a box that was inspected by the Government inspector? A. Right.

Q. And those chickens were sold to the people you mentioned? A. Yes.

Q. One named Wagshaul? A. Right.

Q. And one Stauber? A. Right.

Q. And the Schechters had paid for these chickens as they came in? A. That I don't know.

Q. In the course of events, they pay their bills, don't they? A. Yes.

Q. They pay you, don't they? A. Yes.

2662 Q. Their credit is pretty good, isn't it? A. Yes, very good.

Q. And they are well-thought-of in the industry? A. Yes.

Q. Now, do you know what instructions are received both by you and your co-worker when you go to West Washington Market to get the chickens? A. No instructions.

Q. Were you ever told to cull out the bad chickens when you got down to the market? A. No, sir.

2663 Q. Did you ever do it? A. Probably one or two occasions.

Q. You do it? A. Yes.

Q. Trying to get the best there was whenever you can, to cull them out? A. Well, I do not know if he tried, Mr. Joe Schechter was the buyer.

Q. He bought all the time? A. Yes, sir.

Q. Did he buy during the month of June? A. I just can't recall whether he did or not.

Q. Try and recall whether or not Alexander was the one that made the purchases in the

2664 months of May and June, or whether it was really Joe Schechter. A. No, Joe Schechter.

Q. You are sure? A. Yes.

Q. In the month of May? A. Not up to the Code.

Q. May 16th? A. Yes.

Q. Up to that time he bought the chickens? A. Not up to that time, it was Al Schechter up to that time.

Q. And after that time Joe Schechter? A. He was buying and is still buying.

Q. Right along? A. Yes, sir.

Q. From May 16th? A. I just can't recall

2665

whether it was May 16th, but after that time it was Mr. Joe Schechter.

Q. He bought the chickens, did he? A. Right.

Q. You were present when he bought the chickens? A. No.

Q. Then what makes you say that he bought the chickens? A. Because the three brothers remained in the place.

Q. Every day? A. Pretty near every day.

Q. And you mean Joe Schechter was away from the place? A. That is right.

2666

Q. Do you know whether 991 Rockaway Avenue was open during the month of June? A. I can't recall that.

Q. Did you ever see him at 991 Rockaway Avenue? A. I was there on one occasion, yes.

Q. Did you find him over there? A. No, sir.

Q. Don't you know that the place was operated until July at 991? A. I can't remember.

Q. Try and recall and make sure. A. I can't because I wasn't employed there and I wasn't interested.

2667

Q. But you were employed at 858 East 52nd Street? A. Right.

Q. My understanding is that Joe Schechter met you occasionally, once in a while, at 4 o'clock when you left for your home? A. Right.

Q. He came to 858 East 52nd Street at 4 o'clock and picked you up? A. Once in a while, yes.

Q. Occasionally during the month of June? A. Yes; I just can't remember whether it was during the month of June.

Q. Were you asked that question when you made that affidavit, did you make that statement or were you asked the question whether or not

2668 Joseph Schechter was operating 991 during the month of June? A. No.

Q. When you made that affidavit? A. No, I can't recall that.

Q. You can't recall that, you wouldn't commit yourself one way or the other? A. No, sir.

Q. You are not definitely sure now that Joe Schechter made the purchases during the month of June for 858 East 52nd Street? A. I am not sure.

2669 Q. But you are sure that the other three Schechter brothers were present most of the day during the month of June when the selection was made of chickens? A. I do not get you.

Q. During the month of June you testified that selections of chickens were made by customers, you testified as to four or five instances. A. Yes, sir.

Q. During that period of time? A. Right.

Q. You are definitely sure? A. Yes.

Q. That the three Schechter brothers excluding Joseph Schechter—— A. Right.

Q. Were present at the premises? A. Right,

2670 with the exception of a few times.

Q. A few times, who was absent? A. Joe Schechter was also there.

Q. Joe Schechter was there too? A. Yes.

Q. During the month of June? A. I cannot recall whether it was during the month of June.

Q. You say there were two working men there, is that right? A. Right.

Q. And who was the other gentleman? A. Abe Danziger.

Q. There were two working men outside of the Schechters? A. Yes, and then there is——

Q. And then you picked——

The Court: Just a minute, he did not finish.

The Witness: There was a third man in there for about two weeks.

Q. Just for two weeks? A. Yes, sir.

Q. Besides those two weeks you and Danziger were there at all times? A. Right.

Q. And you picked out the chickens from the coops as the customer wanted them, is that right? A. Right.

Q. And one of the Schechters weighed them? 2672
A. Yes, Meyer Schechter.

Q. And what did the other two do? A. On the floor.

Q. What do you mean by on the floor? A. Managing the place.

Q. What was there to manage? A. Abe Schechter was on the floor, salesman.

Q. Didn't you say you were the one that picked the chickens out as the customer gave them to you? A. As the customer——

Q. You picked the chickens out and gave them to the customer and he gave them to the shochet? 2673
A. Right.

Q. What did Schechter do, what did he manage?

Mr. Rice: Which one?

Mr. Heller: Whoever was there.

The Witness: Abe Schechter was on the floor.

Q. What did he do? A. Walking up and back between the stacks on the floor.

Q. He was just walking up and down? A. Trying to have the butchers kill the way he wanted them killed.

2674 Q. Straight killing? A. I do not know whether it was straight killing.

Q. What do you mean the way he wanted to do it? A. I imagine it was straight killing.

Q. What did the other Schechter do? A. Al, he done the same thing.

Q. What did Danziger do? A. Pull for customers.

Q. What? A. He pulled for customers.

Q. What do you mean he pulled for customers? A. The same thing I done.

2675 Q. There were shochets? A. That is right.

Q. You helped one and he helped the other? A. Right.

Q. And the two Schechters went around? A. Right.

Q. Pacing the floor? A. Right.

Q. Up and down? A. No, not pacing the floor, practically standing in the place.

Q. What did the third Schechter do? A. He was at the scale.

Q. That was all? A. Right.

2676 Q. That was the usual thing during the month of June? A. At all times.

Q. At all times, was Joe Schechter ever present then? A. Joe Schechter was there once in a while, on a Thursday morning I believe.

Q. He would come in on Thursday morning? A. Right.

Q. For an hour or two? A. Probably more.

Q. Do you know whether he came to purchase chickens there? A. I do not know.

Q. Do you know whether any charges were made for him? A. Not that I know of.

Q. Do you know whether any deliveries were made to him? A. Not that I know of.

Q. You didn't do all the delivering yourself, did you? A. No, sir.

Q. Somebody else did? A. I don't know if somebody else did or not.

Q. It might have been done? A. I do not know.

Q. Chickens might have been sold to him? A. I do not know.

Q. You had occasion to look at the books? A. No.

Q. You had occasion to look at the price tickets? A. No.

2678

Q. You never saw a price tag? A. I did.

Q. Then you did see some? A. Yes.

Q. Then you did have occasion to look at them? A. Right.

Q. And make memoranda? A. Did not.

Q. You fixed it in your mind? A. No.

Q. You had forgotten about it after you saw it? A. I had.

Q. But you remembered it when you made an affidavit, didn't you? A. As to what?

Q. As to the price the chickens were sold for, didn't you? A. What chickens was that?

2679

Q. Whatever chickens you have in mind, when you made the affidavit for Mr. Rice. A. I cannot recall it.

Q. You did not tell him about the price that the chickens were sold for, did you, when you made the affidavit? A. What chickens is that?

Q. Whatever you told him about. You don't remember? A. Well, if you will enlighten me what chickens, maybe I would,

Q. Well, I don't want to suggest the answer to you, except what you know yourself. A. Yes, I would know it if you——

2680 Q. If I told you. A. No, I wouldn't want you to tell me.

Q. When you made the affidavit you were in the Schechters' employ, were you not? A. Right.

Q. You did not tell them you were going down to make an affidavit, did you? A. I did not.

Q. You said nothing to them about it? A. No, sir.

Q. Who asked you to make the affidavit? A. Who asked me?

Q. Yes. A. Nobody.

2681 Q. Did it voluntarily? A. Right.

Q. Came into the Government and offered an affidavit? A. Right.

Q. To whom did you go? A. Code Authority.

Q. To whom? A. 641 Washington Street.

Q. What person did you see? A. Mr. Dale.

Q. Who is attorney for the Code Authority? A. Yes.

Q. When did you see him for the first time? A. I cannot recall the day.

Q. In the month of May? A. Probably.

Q. Month of June? A. Yes.

2682 Q. See him many times? A. A few occasions.

Q. You had a conference with him? A. What do you call a conference?

Q. Well, did you have a talk with him? A. Yes.

Q. He told you to see what you can observe at the place, didn't he? A. Right.

Q. And you obliged him, didn't you? A. I did not.

Q. Didn't you give him the information? A. I didn't oblige him. I did it of my own accord.

Q. Voluntarily? A. Right.

Q. In other words, you were getting paid from

the Schechters for a living, but you were willing to give evidence against them? A. Right.

Q. That is right, isn't it? A. Right.

Q. Mr. Cohen, do you remember that a strike was called at the Schechters in the month of May? A. Month of May?

Q. Yes. A. I cannot recall.

Q. You are the secretary of the union, isn't that right? A. Yes.

Q. Wasn't there a strike called and the question was raised as to whether or not they should employ a third man? They said they cannot afford to employ a third man, and you called a strike? A. I did not. 2684

Q. Was a strike called? A. I don't know. I wasn't employed then.

Q. You were not employed then in May? A. When the strike was called—in May?

Q. Yes, in May. A. We did have a strike, but I don't remember what month it was.

Q. Was it in May or in June? A. I cannot recall.

Q. Do you remember talking to the Schechters about that strike? A. Do I remember? 2685

Q. Do you remember having any kind of a conversation with them about the strike? A. No.

Q. Never mentioned a word to them? A. They knew there was a strike.

Q. You knew too, didn't you? A. Yes; so did they.

Q. Didn't you tell them, "I will give it to you when the trial comes up"? A. Didn't do nothing of the kind.

Q. You didn't say that? A. Nothing of the kind.

Q. You did not say they will feel sorry for it? A. No, sir.

Q. You did not try to push another man on them, did you? A. I did not.

Q. You know your union is a strong union? A. Yes.

Q. Very strong? A. Very strong.

Q. And they got to do what you tell them? A. They have got to do what I tell them?

Q. Yes. A. There is nobody in the world has got to do what anybody tells them.

2687 Q. And if they do not, what happens? A. Nothing.

Q. Strike called? A. Yes.

Q. You cannot do any work without men? A. You cannot do any work with the men you got there, yes.

Q. Only those that are sent down? A. What do you mean, sent down?

Q. When you call for a man, doesn't the union send down a man? A. Naturally, yes, if he is a union man.

Q. And that is the only kind they send down?

2688 A. Yes.

Q. And they pay the union wage? A. Yes.

Q. And they have a contract with the union? A. Right.

Q. How many coops of chickens were killed on June 26th? A. June 26th? When you say June 26th, is that on a Tuesday?

Q. Yes. A. I cannot recall how many coops.

Q. What did you testify on direct examination? Do you remember? A. No.

Q. Didn't you say that, "the coops" were killed? A. By the——

Mr. Rice: Just a moment. You asked

how many coops were killed for any particular customer.

Mr. Heller: Just a minute. I will come back to it.

Q. Any selection of chickens—any rejection on June 26th? A. Right.

Q. By whom? A. By all.

Q. Whom did that include? A. All that were there.

Q. All that were in the place of business? A. Right. 2690

Q. On June 26th? A. Right.

Q. Was a man by the name of Sam Tanowitz there? A. Right.

Q. How many heads of chickens does Sam Tanowitz kill on a Tuesday? A. It is according if he can get the good poultry.

Q. Isn't it a fact that on Tuesday he kills 15 heads of chicken? A. On Tuesday?

Q. Yes. A. No; he kills more than——

Q. Sure about that? A. Yes.

Q. How many more? A. Quite a bit more.

Q. How many more, would you say? A. He would kill much more if I would let him sort them. 2691

Q. You would not let him sort them? A. That is right.

Q. You observed the rules for the Schechters? A. What do you mean, I observed the rules for the Schechters?

Q. What do you mean by saying, "If I would let him?" A. Well, naturally, if I would let him monkey up a coop and take whatever he wanted, he would kill much more.

Q. But you would not allow him to do it? A. Not that I wouldn't allow him.

2692 Q. Did you allow him? A. I don't know whether I did or not.

Q. What do you mean by "monkeying up the coop"? A. Well, taking the best ones out and leaving the rest for somebody else.

Q. You did not want to permit that situation to exist? A. No, sir.

Q. Neither did the Schechters, did they? A. I don't know about the Schechters.

Q. They hollered, didn't they? A. I don't know.

2693 Q. Do you know how many customers were in the place on June 26th? A. I don't know.

Q. Do you know how many were in on June 27th? A. That is on a Wednesday, right?

Q. Yes. A. I don't know. Practically——

Q. How many were in on June 25th? A. I don't know.

Q. Do you know how many were in on June 27th? A. I don't.

Q. On June 28th? A. That is on a Thursday. Quite a bit.

Q. On June 29th? A. Don't know how much

2694 Friday.

Q. June 30th? A. That is a Saturday.

Q. Yes. A. A few customers.

Q. You were there all day? A. Not all day. Saturday evening.

Q. You only worked Saturday night? A. Yes, sir.

Q. Is that right? A. Right.

Q. How many customers were in on Sunday? A. Sunday I am not there.

Q. You aren't there on Sunday? A. Right.

Q. You did not work on Sunday? A. Right.

2695

Q. You did not work on Saturday except Saturday night? A. That is right, Saturday night.

Q. What time do you quit Friday? A. Four o'clock.

Q. Now, that bag of chickens that you claim were put on a car,-you don't know and you cannot say under oath at what particular place those chickens were delivered, can you? A. No, but I do know there was a call.

Q. Did you see, did you follow the automobile and did you observe at what place they were dumped? A. No, sir, they were not dumped, I am positive of that.

2696

Q. Now, Mr. Cohen, let me get you straight: Did you follow the car? A. I did not.

Q. Were you there when they were delivered? A. Was I there when they were delivered?

Q. Yes. A. No, sir.

Q. And those chickens came out of a coop that was inspected? A. Yes, sir.

Q. Is it unusual for empty coops to remain in a place for a few days? A. Yes.

Q. It is unusual? A. Yes, sir.

2697

Q. Why is it unusual? A. Because we cannot load them all on one truck.

Q. I just do not understand what you mean. Will you explain it more fully? A. Will you ask me that question again?

The Court: Repeat it.

(Reporter repeated last question.)

Mr. Heller: I will withdraw it and make it a little simpler for him. He may understand it.

The Witness: That is clear enough.

Q. Oh, is it? A. Yes.

2698 Q. All right. A. Sometimes the truck leaves for the railroad before we get through with the killing and sometimes there is, like on a Thursday, we have a big killing, and we load up a load of empty coops consisting of 45, and the balance we leave in the place if there is any empty.

Q. What do you mean you load up a load of empty coops? What do you mean by that? A. When we get through with a killing we roll them outside and we load them up.

Q. On the truck? A. Right.

2699 Q. Where do you take them to? A. Either to the 21st Street Yard or New York Central Yards.

Q. That is the coops? A. That is right.

Q. Sometimes they remain over night, the coops? A. Yes.

Q. They may remain in the place for two days? A. Yes, and then some.

Q. And may remain there three days? A. I don't know. Probably two or three days.

Q. Sometimes four? A. I would not commit myself.

Q. You would not say no? A. Two or three

2700 days, yes.

Q. Now, the labels, inspection labels, that are on the coops, are they taken off by you every time you load them on a truck? A. No.

Q. They are not taken off, are they? A. They are taken off, but not by me.

Q. You see them taken off? A. We know that for a fact, that they are taken off.

Q. Did you see them taken off? A. Yes, I seen them taken off.

Q. Saw the operation? A. Yes.

Q. Where? A. At the New York Central Yards.

2701

Q. Take off every label on the truck? A. Not take it off. Scrape it off.

Q. Some of them are scraped off? A. Yes.

Q. Others are replaced? A. Right.

Q. Sometimes they are pasted over the others? A. Yes.

Q. It is possible? A. Yes.

Q. It is done frequently? A. Right.

Q. When Mr. Forsmith was there on June 28th—— A. Yes, Thursday?

Q. June 28th? A. Right.

2702

Q. You did not hear the testimony Mr. Forsmith gave in this Court, did you? A. No.

Q. Did he tell you while you were there at the place, that he discovered together with the doctor one coop of chickens and one isolated basket? Did he mention that at the place? A. He did not.

Q. He did not say anything about that? A. No.

Q. Did not mention a word about it? A. No.

Q. He did not see it, as far as you know? A. Well, he did see some of them. He did not see the coop.

2703

Q. He did not see the coop? A. No.

Q. Where was that isolated basket? A. It wasn't a basket.

Q. What was it? A. A coop.

Q. How many chickens were in there? A. Juss a handful.

Q. By a handful do you mean six? A. Six or eight.

Q. Six or eight chickens? A. Yes, leghorn chickens.

Q. They were in a coop? A. Right.

Q. And where? A. In a back room.

Q. Was that the room that the other coop was in? A. No.

Q. That was still in another room? A. No, that coop was in the second stack towards the door.

Q. You mean in front? A. In front of the door, second or third stack.

Q. Where all the chickens are displayed? A. Right.

Q. Don't you know that the doctor went through each and every coop and inspected the
2705 chickens while he was there? A. He did not.

Q. And so if he testified he did he is mistaken? A. I don't know whether he did or not.

Q. Then when you said that he did not see it, you do not know whether he did see it or he did not see it? A. I am positive he did not see it.

Q. You followed him step by step? A. Right.

Q. You went in with him in the back? A. I did not go in the back with him.

Q. You were standing in front? A. Right.

Q. And Danziger and the doctor went in the rear room? A. Not Danziger.

2706 Q. Pardon me, Forsmith? A. Right.

Q. The two of them went in the rear room? A. That is right.

Q. And they came out? A. Right.

Q. Did they immediately go to the front office? A. They came out with the three chickens, I think, three or four chickens.

Q. Did they immediately go into the front office? A. No, they were outside.

Q. In the center of the place? A. Near the door.

Q. The exit in the front? A. Yes.

Q. And they came immediately to the front? A. Right.

2707

Q. And right about to go out? A. Right.

Q. And then the doctor started in to make out the ticket? A. Yes.

Q. And then an argument ensued? A. Right.

Q. And then they went into the small office? A. Right, just for a minute.

Q. Now did you see one of the Schecters go away with Forsmith? A. I cannot recall that.

Q. You don't know what they did after that? A. No.

Q. And during this entire time you were with them? A. Right.

2708

Q. And you stayed around with them? A. Right.

Q. The two Schechters and you? A. Yes.

Q. And the doctor? A. Yes, and the shochet.

Q. You were in every particular place together, all five of you? A. There was more than five.

Q. Well, all six of you, went from place to place? A. No, not from place to place.

Q. Well, you were together at all times, two feet away? A. Practically.

Q. Within two feet apart of each other? A. Yes.

2709

Q. Now I understood you to say that when Forsmith and the doctor and the rest of you were there, that the Schecters were nervous, is that what you said on direct examination? A. Right.

Q. They were all upset? A. Yes.

Q. And raged? A. Yes.

Q. And they hollered about being persecuted? A. Railroaded.

Q. And they said that Ben Forsmith was a competitor of theirs? A. They did not.

2710 Q. Didn't I hear you say that on direct examination? A. That what?

Q. That Ben Forsmith was a competitor? A. I did not.

Q. Or that his relatives were competitors. A. I did not.

Q. Was the word competitor used? A. No, sir.

Q. They merely said they were being persecuted? A. Railroaded.

Q. And that is the only thing they said? A.
2711 Yes.

Q. They were enraged? A. Yes.

Q. And they wanted him to change the ticket, and take back the summons? A. Right.

Q. Now you mean that the doctor was going to make out a summons? A. Dr. Gardner.

Q. Don't you know that the doctor cannot issue a summons? A. Not a summons, a violation.

Q. Do you know whether he left the violation with them? A. I do not.

Q. You don't know anything about it? A. No.

Q. But they started in to holler about not get-
2712 ting a summons and a violation? A. Yes.

Q. And then they went to the front office to cool off? A. They had been in the front office not in the office, on the outside.

Q. Right next to the office? A. Yes.

Q. And you were right between them? A. Yes.

Q. And when you said they were afraid they were going to jump at him, did you see them strike anybody? A. No.

Q. They did not put a hand on anyone? A. No.

Q. Now the doctor was there during this entire period? A. Yes.

Q. And first in the back? A. Yes.

Q. And then in the middle? A. From the back to the front.

Q. There was no middle? A. No.

Q. The first thing that happened was in the back? A. Yes.

Q. And then they got right in the front? A. Yes.

Q. You remember that distinctly? A. They walked slowly toward the front.

Q. Everybody was walking slowly? A. Yes.

Q. And they were arguing as they were walking along? A. Who was? 2714

Q. Everybody. A. No.

Q. Only the Schechters? A. No.

Q. Well, after they left the back room they walked to the front room? A. Right.

Q. Everybody walked slowly? A. Not everybody, two.

Q. Gardner and Forsmith? A. Gardner and Forsmith.

Q. The two of them walked very slowly? A. Right.

Q. And the Schechters ran? A. Sir?

Q. The Schecters ran out? A. They did not, they were in the front. 2715

Q. They had been in the front already? A. Yes.

Q. And Forsmith and Gardner walked slowly, those two? A. Yes.

Q. When they got to the front they said "I won't let you go out until you take back the ticket"? A. He had condemned the chickens already.

Q. He had condemned them already? A. Yes.

Q. They were in a separate coop? A. No, they were in a dirt barrel.

2716 Q. These chickens were? A. The killed chickens, those that he killed.

Q. Those that the doctor killed? A. Right.

Q. Before that time? A. That is right, they were in a coop.

Q. In a separate coop? A. Not in a separate coop, in a coop with others.

Q. Did you see those six or eight chickens? A. Yes.

Q. And did he inspect six or eight chickens? A. I do not know whether he did or not, he de-

2717 stroyed three or four.

Q. As soon as he destroyed those three or four chickens Forsmith and Gardner started to walk out to the front slowly, is that right? A. That is right.

Q. And you and the Schechters and the shochets started to follow them? A. We didn't have to follow them, they came up to us.

Q. You had been in front already? A. Yes.

Q. They came up to you? A. Yes.

Q. Then the Schechters said they wanted to kill the ticket? A. The chickens had already been

2718 killed.

Q. The chickens had already been killed? A. Yes.

Q. And they said that they did not want to be bothered with that ticket? A. That is right.

Q. And you stayed there all during that time? A. Right.

Q. Until after the argument was over? A. That is right.

Q. While you were there there was no force used either way, was there? A. Not that I know of.

Q. You were there? A. That is right.

Q. There was no force used? A. Unless you call vile names.

Q. Just vile names? A. Yes.

Q. That they were being railroaded? A. And different other names.

Q. And that Peterson was ruining the situation, the business? A. Not ruining it.

Q. What then? A. Racketeering.

Q. He was a racketeer? A. Yes.

Q. And the Schechters hollered about paying assessments, did they? A. Yes.

Q. After this colloquy or argument they went out? A. I do not get you correctly on that.

Q. After all this was said—— A. Yes.

Q. Forsmith and Gardner went out of the door, is that right? A. That is right.

Q. The door was wide open? A. Right.

Q. It wasn't closed? A. I am not sure whether Forsmith and Gardner went out, I really don't remember.

Q. Eventually they did go out? A. Yes, sure.

Q. And nobody was at the door to stop them from going out? A. No.

Q. Nobody held anybody by the collar? A. I didn't.

Q. Did the Schechters hold them? A. I don't know whether they did or not.

Q. You saw everything? A. Yes, they went out.

Q. Did you testify that one of the Schechters accompanied Mr. Forsmith and Dr. Gardner? A. I did not.

Q. You didn't see any of them? A. No.

Q. After this argument you went back to do your work? A. Right.

Q. That was all that happened there? A. Right.

2722 Q. Nothing else happened there? A. Not that I know of.

Q. Did I hear you say on direct examination one of the Schechters said, "Why shouldn't we go over to Forsmith's place and have that place examined"? A. Why shouldn't we?

Q. Yes. A. They wanted to take him over to Forsmith's place.

Q. That was the Forsmith who was there at that time? A. Right.

2723 Mr. Heller: That is all.

Redirect examination by Mr. Rice:

Q. You didn't see anybody inspect the poultry that was sold in the month of June, 1934, did you? A. Any what?

Q. You didn't see anybody inspect the poultry that was sold by the Schechters in June, 1934, you didn't see it inspected? A. No.

Q. You were in the premises when any of it was inspected? A. There was none that I know of.

2724 Q. Now on direct examination you referred to diseased chickens? A. Right.

Q. You do not include chickens with broken wings, do you?

Mr. Heller: We have had the definition of what he claims is diseased chickens fully; I think we do not have to go into that any more.

The Court: No, you asked him the question and he answered it, I will let him answer that; I heard the answer and the jury heard it.

2725

Mr. Heller: All right, as long as you are satisfied.

Q. Is a diseased chicken one with a broken wing? A. Well, that is part of diseases, yes.

Q. Is that part of a disease? A. Yes.

Q. You know what seconds are, don't you? A. Yes.

Q. A chicken with a broken wing is a second? A. Yes.

Q. And chickens that are fit for human consumption but are rather thin, they are called seconds? A. Very poor, yes. 2726

Q. Yes, but now there are other chickens that are unfit for human consumption, aren't there? A. Yes.

Q. Very diseased chickens? A. Yes.

Q. Is that right? A. That is right.

Q. Chickens you would not eat under any consideration? A. No, nor would anybody else.

Q. When you referred to sales afterwards of poultry unfit for human consumption from May, 16th to July 26th, 1934—— A. Right.

Q. (Continuing) —were you referring to chickens that were unfit for human consumption? A. That is right. 2727

Mr. Heller: I object to the characterization of counsel, what he claims to be an unfit chicken, we had the definition from him fully, he has explained it one by one.

Q. You were referring to those chickens? A. That is right, yes, sir.

Q. Chickens that you nor anybody else would

eat if you knew their condition, is that right? A. Yes.

Q. Now on those occasions when you saw one of the Schechters, which Schechter was it you saw haul the chickens away that had had their necks slit, and on what day? A. That was on Friday, Meyer Schechter.

Q. Meyer Schechter? A. Right.

Q. You said on cross examination that you were positive that these chickens were dumped? A. Positive that they were not dumped.

2729 Q. I mean not dumped. A. That's right.

Q. Well, what did you mean by that, do you mean dumped in the ash heap or destroyed? A. If they were dumped there was barrels over there for them to be dumped in and I would dump them or somebody would destroy them.

Q. And these chickens were hauled away? A. Yes, they were charged and hauled away.

Q. And that was after Meyer Schechter called Wagshul on the telephone? A. That's right.

By Mr. Heller:

2730 Q. Who slit those necks? A. I really don't know who slit those necks.

Q. All you know is that you saw them slit? A. Yes.

Q. Would you want this jury to get the impression from you that you, under oath, now say that those chickens you would have dumped actually found themselves in the place of business of some customer? A. I will not commit myself to that, Mr. Heller.

Q. Do you know the custom in the Jewish trade that a shochet will not kill a chicken that has a broken wing? A. Yes, he will.

Q. He will do it? A. Yes.

Q. You are sure about that? A. Yes.

Q. Now you know that he is not allowed to do it? A. Whether he is or not that is not my affair.

Q. Do you know whether he is allowed to do it? A. I don't.

Q. You are a Hebrew? A. Yes.

Q. Do you know that if a housewife finds something wrong after she cuts up a chicken that she must take it to a rabbi for examination? A. 2732
At certain times.

Q. Any time? A. Not all.

Q. Well, most people do it? A. The orthodox people.

Q. If they find a needle in there they would take it to the rabbi, wouldn't they? A. Yes.

Mr. Heller: That is all.

By Mr. Rice:

Q. Now you say that a shochet would kill chickens even though they were not strictly kosher? A. Sometimes they would because many 2733
times they could not tell whether it is kosher or not.

Q. About diseased chickens, the one you say nobody would eat, do they kill them too? A. Yes.

Mr. Rice: That is all.

The Court: We will take a recess now until ten o'clock tomorrow morning.

Gentlemen of the jury, do not discuss this case among yourselves, or allow anyone to discuss it with you and be back

2734 *Abe Danziger—By Govt.—Direct*

here at ten o'clock tomorrow morning sharp.

(Adjourned to Wednesday, October 24, 1934, at 10 A. M.)

Brooklyn, N. Y., October 24, 1934.

(Met pursuant to adjournment at 10:00 A. M.; present as before.)

2735

ABE DANZIGER, called as a witness on behalf of the Government, having been duly sworn, testified as follows:

Direct examination by Mr. Rice:

Q. What is your occupation, Mr. Danziger? A. I am a chauffeur.

Q. Where do you work? A. At the Rugby Live Poultry Market, 858 East 52nd Street.

2736 Q. Speak up a little louder. A. 858 East 52nd Street, Rugby Live Poultry.

Q. Who do you work for there? A. The Schechter Brothers.

Q. Alex? A. Alex, Aaron and Meyer Schechter.

Q. How long have you worked there? A. Seven months.

Q. What do you do at the place? A. I am a market chauffeur, I go to railroads most of the time.

Q. What else do you do? A. Well, I am inside killing poultry, handing it out to butchers.

Q. You will have to speak a little louder so

that we can hear you back here. What sort of work do you do inside with the poultry? A. I hand the poultry out to the butchers, the customers.

Q. Anything else? A. Yes, I put the stuff together, I help Mr. Cohen, my co-worker.

Q. Do you belong to a labor union? A. Yes, sir.

Q. Which one? A. Local 167.

Q. How long have you belonged to that union? A. I belonged there eight years now.

2738

Q. Were you present at the Schechter slaughter house market at 858 East 52nd Street on Saturday, May 26, 1934? A. Yes. sir.

Q. Did you take account of the amount of poultry in the premises? A. I did.

Q. When you left on Saturday? A. I did.

Q. And your co-worker, Mr. Cohen, did the same thing A. Yes, sir.

Q. When you returned to the place on Monday, May 28th—— A. Yes, sir.

Q. (Continuing) —what did you do? A. I counted the poultry the first thing in the morning to see how much coops we got in.

2739

Q. How much poultry did you find had been brought in between Saturday night when you left and Monday morning, May 28th, when you arrived? A. 82 baskets.

Q. How do you know there were 82 baskets? A. We counted them.

Q. Counted them all? A. Counted 82 baskets.

Q. Were they empty baskets? A. Yes, empty baskets.

Q. Had they been in the place the Saturday night before? A. No, sir.

2740 Q. Was there additional poultry in the place on Monday? A. Yes, sir.

Q. How much? A. I don't know how many coops were in there, but there were 82 baskets more poultry in there than there were Saturday night.

Q. Would it be about the amount that 82 baskets would hold? A. Yes, sir.

Q. Where was that poultry? A. In coops.

Q. It had been put in coops? A. Yes, sir.

Q. Did you examine the 82 baskets to see whether or not there were inspection labels on them? A. Yes, there were no inspection labels whatsoever on them.

2741 Q. How do you know? A. Because I looked for them.

Q. What is that? A. I looked for them.

Q. How are you so certain? A. Because every one of them has a separate label with a date on it, we looked at each tag.

Q. What was the condition of the baskets? A. They were new ones.

Q. Brand new baskets? A. That is right.

2742 Q. Were there any inspection labels at all on them? A. No, sir.

Q. How about the coops into which the additional poultry had been put? A. They were all old inspection labels on there from May 23rd.

Q. From May 23rd? A. Yes, sir.

Q. Were there any more recent inspection labels? A. No, sir, the old ones are always taken off before the new ones are put on.

Q. Are you sure there were no more recent inspection labels on the coops? A. Yes, sir.

Q. Did you see what happened to these 82 baskets of poultry later on? A. Yes, sir, they were slaughtered off.

2743

Q. During what period of time? A. During Monday morning.

Q. Monday morning? A. Yes, sir.

Q. Were they sold? A. They were all sold, yes, sir.

Q. Do you know whether anybody came to the place to inspect the poultry? A. No, sir, nobody came to the place to inspect the poultry.

The Court: What day was this?

The Witness: May 28th, your Honor.

2744

Q. Did you handle those 82 new baskets later on? A. Yes, sir, we loaded them on another truck.

Q. When? A. About later in the afternoon.

Q. On Monday, May 28th? A. That's right.

Q. And did you look the baskets over? A. Yes, sir, we did.

Q. What did you find? A. There was no inspection tickets on them whatsoever.

Q. You handled each one? A. Yes, sir.

Q. Did anybody else handle them with you? A. Yes, Samuel Cohen handled them with me, my co-worker.

2745

Q. Both of you handled all of the baskets? A. That's right.

Q. Now, on Monday morning, May 28th, do you know whether or not 50 coops of poultry were sent to Philadelphia from the Schechter Market?

Mr. Heller: If your Honor please, I object to the form of that question. I must insist from now on that counsel ask what he found and what he did.

The Court: You should not lead him

2746

Mr. Rice: Very well, your Honor, I withdraw the question.

Q. What else did you do on Monday morning, May 28th? A. There was a lot of coops on my truck, the White truck, 38 of the coops.

Q. And who loaded these 38 coops onto the truck? A. Either Al or Abe loaded them on the truck, either Sunday night or Monday morning, very early.

Q. Did you find them on the truck? A. I did
2747 not find them on the truck, but Samuel Cohen told me——

The Court: Strike it out, tell us what you know.

The Witness: I know that 38 coops left for Philadelphia.

Q. Tell me, how do you know that? A. I saw that my truck was missing in the yard, and I asked what happened to it.

Q. You did not see the 38 coops yourself? A. No, sir.

2748 Q. Had you handled 38 coops earlier, the prior week? A. Yes, sir.

Q. And what had you done? A. I loaded them on the truck and I took them to New York.

Q. Thirty-eight coops? A. Yes.

Q. How do you know that? A. Well, there were five 7's and three on the shed, five 7 stacks.

Q. You mean they were piled seven high? A. That's right, and three on top of the shed.

Q. That makes 38? A. Thirty-eight.

Q. Do you know whether or not any poultry was brought in from Philadelphia on Monday night?

2749

Mr. Heller: I object to the question, your Honor, in the form that it is put.

The Court: What is the matter with it?

Mr. Heller: It is suggestive and leading.

The Court: He asked him a simple question and it calls for just a yes or no answer.

(To witness:) Now, of your own knowledge, not what somebody told you. Do you know that?

2750

The Witness: I know it of my own knowledge, yes.

Q. Tell us what you know. A. That 38 coops came in Monday night.

Q. How do you know that? A. Because we counted them Monday afternoon before we went home and we counted all the poultry that was in the place, and we have a record of it and we turned it in every week.

Q. You counted the inventory on Monday when you left? A. That is right.

2751

Q. And then you counted again the poultry that was there on Tuesday morning? A. Yes.

Q. And what did you find? A. Forty-two coops and 59 baskets.

Q. That had not been there the previous night? A. That's right.

Q. Did you examine those 42 coops? A. Yes.

Q. What did you find? A. I found they were not inspected either.

Q. Did you find any inspection labels on them? A. Yes, old inspection labels, the ones we had left Monday night on them.

Q. As of what date? A. The same day, May 23rd.

2752 Q. No other inspection labels? A. No.

Q. And did you look at every coop? A. Yes.

Q. And did you look at the 59 baskets? A. Yes.

Q. And what did you do about them? A. They were not inspected either.

Q. You saw that? A. Yes.

Q. Did you see any inspection labels on them at all? A. No.

Q. And did you look for them? A. Yes.

2753 Q. Are you sure there were none? A. Yes, because I handled every one of those baskets on the truck later on.

Q. Now, about how much poultry was in the 59 baskets? A. I don't know, there is about 12 to 13 fowl in each basket.

Q. Somewhere around 55 to 60 pounds each? A. Somewhere around 55 to 60 pounds each.

Q. Would the 59 baskets of poultry weigh around 3500 pounds? A. Yes, sir.

Q. Now, what happened to the 42 coops of poultry and the 59 baskets that arrived on Monday night, May 28th? A. The 42 coops we had

2754 in the place, the 59 baskets were loaded on the truck and were supposed to go to Wallabout Market.

Q. What happened to the 42 coops first? A. We slaughtered them off during the week, we sold them.

Q. They were all sold during the week? A. Except one coop and a half that was left over at the end of the week.

Q. Everything except the one coop and a half was sold by the end of the week? A. Yes.

Q. Do you know whether or not they were in-

spected in the premises? A. No, sir, they were not inspected in the premises.

Q. Now, how about the 59 baskets of poultry that arrived that Monday night, May 28th, what happened to them? A. I was supposed to load them on a truck—I did load them on the truck with intentions to go to Wallabout Market, but they never went there, they went to No. 539 Snedecker Avenue.

Q. Now, just a minute, let us not go so fast. Did anybody tell you to load them on the truck? 2756
A. Yes, sir, in the morning about 9:30.

Q. What morning? A. Tuesday morning.

Q. Tuesday, May 29th? A. That is right.

Q. Who told you to load them on? A. Alex, Abe and Aaron Schechter.

Q. What did they say? A. They said we should load on the baskets on the truck, the 59 baskets on my truck, just load them on the truck for a while.

Q. Now, did anybody arrive after you started loading them on the truck? A. Yes.

Q. Who? A. Dr. Seabrook. 2757

Q. Who is he? A. He is the colored inspector from the Department of Health.

Q. What happened after Dr. Seabrook arrived? A. He asked him where is the inspection labels on the baskets.

Q. And did he look at these 59 baskets? A. Yes, sir.

Q. And did he talk to somebody? A. He talked to Abe Schechter.

Q. Was anybody else there at the time? A. No, Abe was there alone in the back room while we were weighing them.

Q. What did he say to them? A. He said,

2758 "Well, why aren't these inspected," and he says, "Well, I am sending them down to Wallabout Market now to be inspected."

Q. Who said that they were sending them down to Wallabout Market to be inspected? A. Aaron Schechter.

Q. And you heard him say that? A. Yes, sir.

Q. Was Alex and Martin Schechter present at the time? A. No.

Q. Then what happened? A. Well, we were loading them on the truck and I was about to pull
2759 out with my truck, with the 59 baskets, when Alex Schechter stopped me and he said, "Wait a while."

Q. Was Dr. Seabrook still there? A. Yes, sir.

Q. And Alex Schechter said, "Wait a while"? A. Yes.

Q. Who was present when Alex Schechter said, "Wait a while"? A. I think Meyer Schechter was there.

Q. How about Aaron? A. Yes, he was there.

Q. Both of them? A. They were all there.

Q. And it was Alex that did the talking? A.
2760 Yes.

Q. And the others were right present? A. At the time, yes.

Q. And they heard what was said? A. Yes, sir.

Q. What did you do? A. I waited a while, and then, after a while, I waited about ten minutes—

Q. And then did Dr. Seabrook leave during that ten minutes? A. Yes, sir.

Q. After Dr. Seabrook had gone did you have any further conversation with the Schechter brothers? A. Yes, sir; Alex Schechter says I

should take it over to his father's place at 539 Snedecker Avenue.

Q. Who was present when Alex Schechter told you that? A. Meyer Schechter was there and Alex—and Aaron Schechter was there.

Q. They were both present at the time? A. Yes, sir.

Q. And they both heard what was said? A. Yes, sir.

Q. Did they say anything? A. No, sir.

Q. Alex Schechter simply told you to take them over to his father's place at 539 Snedecker Avenue? 2762 A. That is right.

The Court: That was what, how much?

Mr. Rice: Fifty-nine.

The Witness: Fifty-nine baskets.

Q. What did you do? A. Well, I went on my truck and I drove over to his father's place and we started unloading the 59 baskets.

Q. On the way over did you stop at Wallabout Market for inspection? A. No, sir, I went straight to 539 Snedecker Avenue. 2763

Q. That was your instruction from the Schechter brothers? A. From Alex Schechter.

Q. You went straight over to the Mogen David Live Poultry Market? A. That is right.

Q. What did you do there? A. I unloaded the 59 baskets, and while I was unloading Abe Schechter came over in his car and he had a yellow slip in his hand. He says, "This is the inspection ticket for the 59 baskets."

Q. To whom did he talk? A. To his brother, Harry, Harry Schechter.

Q. I hand you—did he hand him something? A. He handed him a yellow slip, I could not see

2764 what was on the slip, because I was on my truck unloading the baskets.

Q. What did he say? A. He said, "That is the inspection ticket for the 59 baskets."

Q. And you had not stopped for inspection? A. No, sir.

Q. There was nobody there at the place inspecting the poultry when you were unloading it? A. No, sir.

Q. Or after it was unloaded? A. No, sir.

Q. While you were still there? A. No, sir.

2765 Q. As a member of Local 167 do you keep a record of the amount of poultry brought into the market each week? A. Yes, sir, that is, the regular——

Q. Your record covers one entire week? A. That is right.

Q. When does that week commence? A. Friday, Friday after the killing.

Q. Friday after the killing? A. Friday afternoon.

Q. What time of day is that? A. That is about twelve o'clock, after the shochets go home.

2766 Q. I hand you this card with the name Rugby at the top of it and ask you whether you have seen that before? A. Yes, sir.

Q. What is that card? A. That is a stock card that we keep every week, we send that in to Local 167 as a regular routine. Every market sends it in.

Q. That is, the union men from every market send it in to the union? A. That is right.

Q. It is part of your duty to keep that? A. Yes.

Q. You keep an accurate record of the amount

of poultry coming in each week? A. Yes.

Q. What is the purpose? A. The purpose is whether we can use another man in the place, or don't need another man.

Q. To see whether the market can use another market man? A. That is right.

Q. How much poultry was left in the place at the time of the killing—at the time that the killing stopped on Friday, May 25, 1934? A. A coop and a half.

Q. One coop and a half? A. That is right. 2768

Q. I mean the previous week. Look at the card and see whether that refreshes your memory. How much was left at the beginning of the week? A. At the beginning of the week there was left 7 coops.

Q. 7 coops? A. Yes.

Q. That was prior to—— A. Last Friday.

Q. Prior to noon Friday, May 25th? A. That is right.

Q. Do you know how much poultry came in on Friday after the killing ceased? A. Yes, sir.

Q. How much? A. 18 coops.

Q. How much came in on Saturday? A. Saturday, 82 baskets came in—that was Sunday morning, I guess, because after—we worked until 11 o'clock that night and there was no poultry came in. It must have been Sunday morning it came in, 82 baskets. 2769

Mr. Heller: I object to what must have been.

The Court: Yes, I will strike it out. Incidentally, he was talking generally about Philadelphia, but you have no proof on that.

Mr. Rice: We have the Philadelphia witnesses here.

2770 *Abe Danziger—By Govt.—Direct*

The Court: But I mean with him, so we will have no misunderstanding.

Mr. Rice: Yes.

Q. You have already told us about these 82 baskets? A. Yes.

Q. You found them there Monday morning when you arrived? A. That is right.

Q. They were not there Saturday when you left? A. That is right.

2771 Q. Do you know how much poultry came in on Monday, May 28th? A. Monday, came in 42—38 coops and 59 baskets.

Q. Was it 38 coops that came in? A. Yes.

Q. But you found 42 coops when you got there? A. That is right. The reason for 42 coops, there is 4 coops to lighten them up, the poultry was pretty heavy packed and they must have lightened them up in four coops more extra, to have the room to walk around and eat.

Q. How much poultry arrived at the Schechter premises on Tuesday, May 29th? A. Tuesday, May 29th?

2772 Q. Yes. A. 38 coops arrived. I brought them there from West Washington Market myself.

Q. On Wednesday, May 30th? A. Wednesday we worked only to—it was a holiday and we worked only until eleven o'clock that day.

Q. Just tell us how much poultry arrived on Wednesday. A. Wednesday, 62 coops.

Q. 62 coops? A. That is right.

Q. And on Thursday? A. Thursday arrived 18 coops.

Q. And Friday was—you don't have Friday on there? A. We haven't Friday on this ticket because it was on the following week's.

Q. How much poultry was left on the premises

at the end of the killing on Friday, June 1st? A. There was a coop and a half left from the whole week's killing.

Q. And everything else was sold during the week? A. That is right.

Q. Are you sure of that? A. Yes, sir.

Q. Were you present at the Schechter premises every working day from May 16, 1934, to July 26, 1934? A. Yes, sir.

Q. Every day? A. Yes, sir.

Q. What kind of poultry did you see there every day? 2774 A. Well, I saw all kinds of poultry.

Q. Did you see any diseased poultry?

Mr. Heller: I object to that.

A. Yes, sir.

The Court: He will have to give the date. We have been all over that before. If you want him to testify, he has got to give the time, because otherwise they cannot meet it.

Q. On May 16th would you say that you saw 2775 any diseased poultry in the Schechter premises? A. Yes, sir.

Q. On May 17th? A. I did.

Q. How about each day from May 16, 1934, to July 26, 1934?

Mr. Heller: I object to that, your Honor.

Q. What kind of poultry did you see each day? A. Well, there is some diseased poultry there and there is some that is not diseased.

Q. Every day? A. Yes.

Q. Each day? A. Yes, sir.

2776 Q. You are sure you saw diseased poultry there each day? A. Yes, sir.

Q. Do you know what happened to that diseased poultry? A. We killed off for dealers.

Q. When you say diseased poultry do you mean poultry that is unfit for human consumption? A. Yes, sir.

Q. That anybody will recognize as unfit for human consumption? A. Yes, sir.

Mr. Heller: I object to the form of the
2777 question, let him describe it.

The Court: Oh, yes, but that is what he is asking, he is asking what he means. We have been over this so many times that I see nothing wrong in asking if that is what he means, unfit for human consumption.

Q. Do you know what happened to that poultry afterwards? A. Yes, sir.

Q. What did happen? A. We killed it off for dealers and we sold it to them.

Q. Was it sold each day? A. Yes, sir.

2778 Q. To what dealers was it sold? A. We have one dealer at 1753 Prospect Avenue, we have another at 858 Blake Avenue, and we have another one at 127 Sutter Avenue.

Q. Do they buy this diseased poultry? A. Yes, sir.

Q. Did they each day during that period of time? A. Yes, sir.

Q. You are sure of that? A. Yes, sir.

Q. Do you know approximately how much they pay? A. Well, they pay about from 6 to 10 cents at the most.

Q. Per pound? A. Yes, sir.

Q. Do you know what class of people those dealers sold to?

2779

Mr. Heller: I object to that.

The Court: I did not hear that.

Mr. Rice: I am asking whether he knows to what class of people those dealers sell it to.

The Court: He ought to specify when, if you go into that we can't take it over a long period of time and go into generalities.

Mr. Rice: I will withdraw that question then.

2780

The Court: On any particular day he can tell you, any particular day the people that it was sold to, yes, or on or about that day.

Q. Have you seen any of those dealers on any particular day sell any of that diseased poultry? A. Yes, sir.

Q. How did you happen to see it? A. Well, on Friday afternoons when we delivered it, what we sell to anybody.

The Court: What Friday?

2781

The Witness: Friday——

Q. Take the first Friday after May 16th. A. That would be Friday the——

Mr. Rice: Just a minute, let us find out what day of the week May 16th is.

The Court: May 16th, 1934, was a Wednesday, Friday was the 18th; Friday is the 18th and 25th of May, June 1st, 8th, 15th, 22nd and 29th.

Q. Prior to the 18th of May, 1934, that is the first Friday after the Code became effective, did

2782 you see anything then? A. I did see them sell it that Friday, because I delivered some poultry to 1753——

The Court: Let us get that straight, wait a minute, that is right, 16th was a Wednesday and 18th was a Friday, that is correct.

Q. It was delivered practically every Friday to that dealer? A. Not every Friday, most of the times they take it themselves.

2783 Q. What did you see that Friday? A. That Friday I saw them sell it to anybody that came into the store, the diseased poultry.

Q. What class of people bought that diseased poultry? A. Poor people that couldn't afford any more.

Q. Colored people? A. I don't know whether they were colored people or not, I didn't notice.

The Court: You saw it, who were they?
The Witness: Mostly white people.

2784 Q. Some colored people? A. Some colored people, yes, sir.

Q. During that period from May 16th to July 26th, 1934 do you know whether or not any live chickens at the Schechter premises have ever been destroyed? A. Nothing alive was ever destroyed. The only ones destroyed were the dead ones that died in the coops, and they have to be green and smell bad, and we throw them out in the can.

Q. You destroyed those? A. Destroyed those that died in the coop overnight, those are the only ones that we destroyed.

Q. In what condition were they? A. They are green, greenish color and they smell bad.

2785

Q. That kind you do destroy? A. Yes, sir.

Q. Do you weigh them when you destroy them? A. No, sir.

Q. What do you do? A. Just throw them into the garbage can.

Q. You say during the whole period of time you never destroyed any live chickens? A. That is right.

Q. They were all sold? A. Yes, sir.

Q. You are sure of that? A. Positive.

2786

The Court: Now we will take a recess for a few minutes. Do not let anybody talk to you about the case, do not discuss it among yourselves.

(Short recess.)

Q. Mr. Danziger, were you at the A. L. A. Schechter Poultry Corporation Market on Wednesday, June 27, 1934?

Q. Do you recall that day? A. Yes, sir.

Q. Do you recall who came into the place that day? A. Well, some of the customers I recall. There was Wagshaw, and another one, three or four, and Tanowitz.

2787

Q. Do you recall whether anybody from the Code Authority came into the place that day? A. Yes, sir, Alampi.

Q. Who? A. Alampi.

Q. Alampi? A. Yes, sir.

Q. You saw him? A. Yes, sir.

Q. What time did he come in? A. He didn't come in the place because Abe Schechter did not let him in. He was there at five o'clock in the morning.

Q. Who else was there? A. Martin Schechter.

Q. Anybody else? A. No, sir.

2788 Q. What happened? A. Alampi tried to get in the place and Abe Schechter told him he could never get in that place, and he called him—he says, "If you don't get out of here, I will throw you out," and he called him all kinds of names, he called him a son of a bitch; if he walked in that place, he would never walk out.

Q. Did he tell him anything else? A. He said if he wanted to come in he would have to go and get an officer to have the right to come in the premises.

2789 Q. Did Meyer say anything? A. I don't know whether Meyer said anything, but he must have said something to him too.

The Court: Not what he must have said. I will strike that out. Did he say anything? What did you hear?

Q. Just give us your best recollection. A. Well, Meyer was talking to him and when Abie started to holler at him, I walked away.

Q. And the three of them were talking together? A. Yes, sir.

2790 Q. Anything else happen? A. No, sir.

Q. What did Alampi do? A. Alampi waited outside all morning in front of the place. He did not come in.

Q. Do you recall whether or not you had a coop of unfit poultry in the place that morning? A. That morning, yes, sir.

Q. Do you recall what happened in respect to that coop of poultry? A. Yes, sir.

Q. Tell us about it. A. Wagshaw came in that morning and he wanted to kill off that coop of poultry.

Q. Who did he talk to? A. To Meyer Schechter.

2791

Q. Who else was there? A. Nobody else.

Q. Meyer Schechter was there? A. Yes, sir.

Q. Tell us what happened. A. Meyer Schechter says to me, Wagshaw wanted to kill off that coop of poultry, but he don't want to kill it off because on account of the inspector was there.

Q. Inspector Alampi? A. Yes.

Q. Meyer Schechter said that to you? A. Yes.

The Court: What was that answer?

(Reporter repeated the answer as follows: "Meyer Schechter says to me, Wagshaw wanted to kill off that coop of poultry, but he don't want to kill it off because on account of the inspector was there.")

2792

Q. You mean Inspector Alampi from the Code Authority was there? A. That is right.

Q. Is that what Meyer Schechter said? A. Yes, sir.

Q. Now in that coop of poultry what Wagshaw wanted to buy were there chickens that were unfit for human consumption? A. Yes, sir.

Q. Diseased chickens? A. Yes, sir.

2793

Q. Chickens that you wouldn't eat? A. Yes, sir.

Q. Or nobody else? A. Nobody else would eat them either.

Q. But they were alive? A. Yes, sir.

Q. What else did Meyer Schechter say? A. He said if I could get rid of the inspector he would kill them off for Wagshaw.

Q. Who did he say that to? A. He said that to me.

Q. He said if you could rid of Inspector Alampi? A. Yes, sir.

Q. What would he do? A. He would kill that

2794 poultry off. And I went to the inspector, Alampi, and told him to go out for a cup of coffee, that no shochets were there and we would not kill off any until the afternoon.

Q. That was after Meyer Schechter told you to get rid of Alampi? A. Yes, sir.

Q. You told Alampi to go out for a cup of coffee? A. Yes, sir.

The Court: If any question is asked of you the answer of which might tend to con-
2795 vict you of a crime or degrade you in the community you have a right to decline to answer it on that ground. Anything that you say here can be used against you in any court. You understand that?

The Witness: Yes, sir.

Q. What did you do? A. I told——

Q. Just a minute, first you were operating under instructions from your superior, were you? A. That is right.

Q. Meyer Schechter? A. That is right.

2796 Q. He told you to get rid of Alampi? A. That is right.

Q. What did you do? A. I went and told him to go out for a cup of coffee, there was nothing doing, there weren't any shochets there, and there wouldn't be any killing until afternoon when the load would come in.

Q. You told him the killing was all over? A. Yes, sir.

Q. But you knew that they were going to kill off that one coop of poultry? A. Yes, sir.

Q. What did Alampi do? A. He walked outside the place, he walked towards the corner. As he walked towards the corner, Meyer saw him out

2797

there, and another shochet who was hid across the street in a car, in Wagshaw's car, came back in the place and we killed off that coop.

Q. You say one of the shochets was hid across the street? A. Yes, sir.

Mr. Heller: Let us have his name please.

The Witness: Rabbi Wise.

Q. How do you know there was a shochet across the street? A. I saw him there.

2798

Q. How many shochets were there in the Schechter place? A. There were two of them there.

Q. Two? A. Yes, sir.

Q. Before you told Alampi to go out for a cup of coffee at the suggestion of Mr. Schechter, what did the shochets do? A. One of them went home, and one went across the street in a car.

Q. You say he hid in the car? A. Yes, sir.

Q. Then what happened the moment Alampi left there? A. This shochet came back from across the street, he came in the place and we killed off that coop of poultry.

2799

Q. How quick did you do it? A. In about five minutes.

Q. About five minutes? A. Yes, sir.

Q. You killed off that coop of unfit poultry? A. That is right.

Q. Was Meyer Schechter there? A. Yes, sir.

Q. Had he said anything about killing it off? A. Yes, sir.

Q. What did he say? A. He said kill it off fast before the inspector gets back,

Q. Who did he say that to? A. He said that to me, to Rabbi Wise also.

Q. He said that to Rabbi Wise? A. Yes, sir.

Q. Are you sure that Rabbi Wise heard that too? A. I am not sure whether he heard it, but he killed them off fast.

Q. You call him Rabbi Wise, he is not a rabbi, is he? A. That is what we call him, we can't call him Mr. Rabbi, so we call him rabbi. He is much older than I am.

Q. He is a shochet? A. Yes. He is much older than I am, and we call him Rabbi Wise out of respect for him.

2801 Q. He is not a real rabbi, he is a shochet? A. He is a shochet, that is right.

Q. You say that Meyer Schechter told you and the shochet to kill off the coop as quickly as possible, before Alampi got back? A. That is right.

Q. And it took you five minutes? A. Right.

Q. Then what happened? A. As we were weighing the coop poultry inspector Alampi came back in just as we were weighing the stuff.

Q. How long had he been gone? A. Oh, 5 or 10 minutes.

2802 Q. While you were weighing the poultry he came back? A. That is right.

Q. What happened? A. He just looked at it and he just walked out again.

Q. Was anything said? A. No.

Q. Did Meyer Schechter say anything? A. Not to him then.

Q. Did he say anything to anybody else? A. No, sir.

Q. Then what happened? A. We packed it up and we put it in Meyer's car.

Q. Who told you to do that? A. Meyer Schechter.

2803

Q. And who put it on Meyer Schechter's car? A. I did.

Q. You put it on Meyer Schechter's car? A. Yes.

Q. Now, you say that Wagshaw was there? A. Yes, sir; he had his car across the street and Meyer Schechter told the bookkeeper that he should meet him in the next block and transfer those two bags of poultry onto his car so the inspector would not notice it.

Mr. Heller: May we have the name of the bookkeeper? 2804

Q. You say that after Alampi, the inspector, came back, he looked at the poultry that had just been slaughtered? A. That is right.

Q. And did he stand outside? A. Yes.

Q. Just outside the doorway? A. Yes.

Q. Then what happened? A. Then Meyer Schechter told me to put it on his car, the two bags of poultry, and he told the bookkeeper, Leo Schimmel is his name, if you want his name, he told him to transfer that over to Wagshaw's car later, on the next block. 2805

Q. Now, did you hear Meyer Schechter tell the bookkeeper to transfer that from Meyer Schechter's car into Wagshaw's car? A. That is right.

Q. And what else did he say? A. He says, "so the inspector won't see it," but then Alampi wanted to ride——

Q. Just a minute, let us get this straight, you say Inspector Alampi—— A. Yes, he wanted to go along with Leo to Joe's place and Meyer chased him off the car, and then he said in a loud voice, "Take this over to 343 Dumont Avenue."

Q. Who said that? A. Meyer Schechter.

Q. And how did he say it? A. In a loud voice so the inspector would hear it.

Q. And what did he say? A. He said, "Take this to 343 Dumont Avenue."

Q. Now, did you have a customer there? A. We had no customer at that number.

Q. Do you know whether that is a real address? A. I don't know.

Q. Had you ever heard of it before? A. No.

2807 Q. But you heard Meyer Schechter say, in a loud voice, to Leo Schimmel, the bookkeeper, "Take this over to 343 Dumont Avenue"? A. That is right.

Q. And you heard Meyer Schechter say something else in a quiet voice, did you? A. He said to him——

Q. Who said to who? A. Meyer said, "Transfer that over to"——

Q. Who did he say it to? A. To Leo Schimmel, the bookkeeper, he says, "Pass these bags over on the next block so the inspector won't see it, take off the bags of poultry."

2808 Q. He said to take the poultry around the block and then transfer it from Meyer's car into Wagshaw's car? A. That is right.

Q. Did Alampi hear him say that? A. No, sir.

The Court: He cannot tell what Alampi heard.

Q. Was Alampi there? A. Yes, sir.

Q. He saw Meyer Schechter talking? A. Meyer Schechter was talking to Leo in the car, he had his head inside the car.

Q. But you heard that yourself? A. Yes, sir.

Q. Then what happened? A. Then Leo drove

2809

away, a block away, and he transferred the two bags into Wagshaw's car.

Q. Did you see that? A. Yes, sir.

Q. Did you hear Meyer Schechter say anything? A. He said, "Look at the dumbbell, Leo, where everybody can see him, transferring that poultry over to Wagshaw's car."

Q. Could Alampi see that? A. He did see it. He took the license plate number of Wagshaw's car.

2810

Q. Alampi saw Leo Schimmel transfer this load of unfit poultry from Meyer Schechter's car to Wagshaw's car? A. That is right.

Q. About a block away? A. Yes.

Q. And you say Alampi took the license number of Wagshaw's car? A. Yes, sir; he walked towards the car when he saw that and he took the license plate number of the car.

Q. Before he walked away did Meyer Schechter say anything to him? A. He said, "You are pretty smart for one guy. You should incorporate."

Q. Say anything else? A. That is all.

2811

Q. Was this poultry weighed before it was taken out? A. Yes, sir.

Q. How do you know? A. Because I weighed it myself and packed it in.

Q. Was a charge slip made out? A. Yes, sir.

Q. To whom? A. I don't know. I couldn't see to who it was made out to.

Q. Who did you see make it out? A. Meyer Schechter.

Q. Who told you to weigh it? A. Meyer Schechter.

Q. And you are sure that in this coop of poultry that was killed off while Alampi was away,

there were some chickens that were unfit for human consumption? A. That is right.

Q. Chickens that nobody would eat? A. Nobody would eat, and neither will I eat it.

Q. Were you present at the place on the following day, Thursday, June 28th? A. Yes, sir.

Q. Who was there? A. Martin Schecter and Al Schechter—and Aaron Schechter.

Q. Anybody else? A. No, sir.

Q. Wasn't Alex there? A. No; he must have come a little later.

2813 Q. Later, after what? A. After the—after they came; after we had the place all cleaned up to start work.

Q. What time did Alampi get there? A. Alampi got there five o'clock in the morning.

Q. Now, was Alex Schechter there while Alampi was there? A. No, Alex Schechter must have got there about ten after five.

Q. Ten after five? A. After.

Q. What time did you say Alampi got there? A. He got there five o'clock.

Q. Wasn't Alex still there when Alampi was

2814 there? A. Alex came later, after Alampi came.

Q. Oh, after Alampi came? A. Yes.

Q. But was Alampi still there when Alex arrived? A. Yes, sir.

Q. Did you hear any conversation between Alampi and Alex, Aaron and Martin Schechter? A. I only heard a conversation between Aaron and Martin Schechter, and Alampi.

Q. What was that? A. They were threatening him if he ever walked in——

The Court: Don't say that; what did they say? Don't say they were threatening him.

2815

The Witness: They told him that he should not walk into the place.

Q. What time in the morning was that? A. That was five o'clock in the morning.

Q. What did Alampi do when he got there? A. He wanted to walk into the place.

Q. Did he say anything? A. He didn't say anything, he just wanted to walk in, and Abe Schechter grabbed hold of him and said he could not walk into my place.

2816

Q. Did he grab hold of him? A. Yes, sir.

Q. What did he do? A. He started to grab hold of him, and called him names, called him a son of a bitch, and said, "You cannot walk into this place, not while I am here."

Q. That was Aaron Schechter? A. That was Aaron Schechter, yes, sir.

Q. Where was Meyer Schechter at the time? A. Meyer Schechter was standing next to him.

Q. Did he do anything? A. Yes, he also started to holler at him.

2817

Q. What did he say? A. He said, "You won't walk in here, not while the two of us are here, or any time. If you want to come in here you will have to bring an officer with a warrant to get in here."

Q. Tell us everything that Meyer and Aaron Schechter said. A. Aaron Schechter says to Inspector Alampi, "You cannot walk into this place," not him or anybody else, he says, "you son of a bitch, if you walk into this place, I will send you back to Washington with Mr. Peterson and the—and the whole Code Authority."

Q. Did he say anything else? A. That is all.

Q. How about Meyer Schechter, did he say

2818 anything? A. He said, "You cannot walk into this place without getting a cop or anybody else, and I don't want you here."

Q. Did he say anything else? A. No, sir.

Q. Did either of them say anything about a hatchet? A. One of them I heard threatening that he would split his head open if he tried to walk in.

Q. Who was that? A. I do not recall which one it was.

2819 Q. That was during this conversation? A. During the conversation, they were both excited.

Q. What did you hear? A. That they would hit him on the head with a hatchet if he ever walked into the place again; I don't know which one said it.

Q. Was there anything else that was said? A. That is all.

Q. Anything said about, "We will give the Code Authority any trouble they are looking for"? A. Well, I don't remember hearing that exactly, because I walked away after I heard about the hatchet, I walked away into the place.

2820 Q. Was anything like that said? A. Something like that was said, that "If you are looking for trouble you will get it."

Q. Do you remember anything else? A. No, sir.

Q. What did Alampi do? A. Alampi walked away, and later, about ten minutes later, he walked away to get an officer, and then he came back again and he stood outside.

Q. Now, on the following day, Friday, June 29th, do you remember that day? A. Yes, sir.

Q. Was it hot? A. Very hot.

Q. Do you remember that day distinctly? A. Yes, sir.

2821

Q. Will you please tell us what happened on that day? A. That day I went to the market to drop a load of empties off, and I came back, and as I came back Julie——

Q. When you say you went to the market you mean West Washington Market? A. West Washington Market, that is right.

Q. You went there to get some poultry to deliver to Schechter Brothers? A. That is right, but I didn't bring any poultry back, I came back with an empty truck. But Julie Ketchum, he was working for Joe Schechter at the time at 991 Rockaway Avenue, and he brought us five or six coops of broilers.

2822

Q. He was working for Joe Schechter? A. Yes, sir.

Q. At the other place? A. Yes, sir.

Q. And you say he brought—— A. He brought us five or six coops of broilers.

Q. When you say he brought you, you mean he brought them to the A. L. A. Schechter Poultry Corporation? A. That is right.

Q. On East 52nd Street? A. That is right. And when we opened them up, took off the top coop, we found about ten or twelve dead ones in there.

2823

Q. Who brought them? A. Julie Katchum.

Q. You saw them brought to the place? A. Yes.

Q. You saw the dead chickens? A. Yes.

Q. What happened? A. I took them out of the coop.

Q. Who was there? A. Martin Schechter was there alone with me.

Q. Did he say anything? A. He did not say anything, but he says, Jesus, look at all those

2824 dead ones in there, and he said take them and throw them on the floor, which I did, and then I was taking off the rest of the broilers with Katchum, and then later on Meyer Schechter cut the dead broilers' throats and put them on a scale.

Q. You saw him cut their throats? A. Yes.

Q. And then he put them on a scale? A. Yes.

Q. Now, as a rule, with dead chickens, do you put them on a scale? A. No.

2825 Q. They were dead, were they? A. They were dead.

Q. You are sure about that? A. Yes, they were dead, they died from sun stroke on the way in from the market.

Q. Now, you saw Meyer Schechter cut their throats? A. Yes, sir.

Q. And what happened? A. We weighed them up and put them in a bag and put them on his car.

Q. Did he tell you to do that? A. Yes, sir, he did. Then he called up Wagshaw's brother at No. 969 Nostrand Avenue.

2826 Q. You say that Wagshaw is one of the men that handles diseased chickens? A. Yes.

Q. You heard him call Wagshaw on the telephone? A. Yes.

Q. What happened? A. There was no answer at the other end and Meyer Schechter got in his car and rode away with the bag of poultry.

Q. That is all you saw? A. That's all I saw.

Q. Now, you say that the poultry was weighed off. A. Weighed off and put in a bag and put on his car to be taken away.

Q. All under his direction? A. Yes.

2827

Q. Now, do you know how much they weighed? A. Thirty-two pounds.

Q. How do you know that? A. Because I weighed them myself.

Q. Now, did Sam Cohen come in with some chickens the same day? A. Yes, sir, he came in from the Brooklyn Commission Company as we were weighing up the broilers.

Q. Did he have any dead chickens in his load? A. Yes, sir, he had two dead fowl.

Q. Was Meyer Schechter there? A. Yes, he also cut the throats on them and they were put in the bag.

2828

Q. And you saw him cut their throats, did you? A. Yes.

Q. And they were included—— A. In the rest of the dead poultry, yes.

The Court: Who brought those in?

The Witness: Sam Cohen.

Q. Your co-worker? A. My co-worker, yes, sir.

Q. Now, getting back again to the previous day, Friday, June 28th, the day that Alampi was there. A. Yes.

2829

Q. Did anybody else come into the place after Alampi had left? A. Yes, sir, Mr. Forsmith and Dr. Gardner.

Q. Mr. Forsmith of the Code Authority came in with Dr. Gardner? A. That's right.

Q. Who was there? A. Alex was there and Martin Schechter.

Q. Anybody else? A. No.

Q. What happened—how about Aaron Schechter? A. No, he happened to be out at that time for some reason or other, he was out, and they

were in the back room and they walked toward the back room, and as they did Mr. Forsmith——

Q. First let me ask you this; when Benjamin Forsmith came in the door did you hear him say anything? A. Hello, Mr. Schechter.

Q. Anything else? A. That's all.

Q. Did he say have you got any culls here? A. Yes, sir.

Q. Did you hear him say that? A. Yes, sir.

Q. And who did he say that to? A. Alex Schechter.

2831 Q. Was Martin Schechter there? A. Yes, sir.

Q. In hearing distance? A. Yes, sir.

Q. When Forsmith said that did Alex Schechter give an answer? A. Yes.

Q. What did he say? A. He said there were three or four back in the coop.

Q. When Forsmith came in first did he say have you got any culls here? A. Yes.

Q. And did you hear what Alex answered? A. I think he said there is three or four culls in the back, in a separate coop.

Q. When Forsmith first came in? A. Yes.

2832 Q. Are you sure about that? A. Yes.

Q. Now, isn't it a fact, Mr. Danziger, that when Forsmith first came in he asked the Schechter boys if they had any culls there and Alex Schechter said no?

Mr. Heller: Now, just a minute, the witness said he said three or four.

Mr. Rice: But we have the testimony of another witness——

The Court: Never mind about that.

Q. Now think this over carefully and see whether you want to change your testimony. A.

I don't remember hearing what he asked about the culls surely or not. I said before, I am not sure whether he asked have you got any culls. 2833

Q. You are not sure whether this conversation took place when Forsmith first came in? A. That is it. All I know——

Q. When did this conversation take place? A. After he walked towards the back of the place and found these four culls.

Q. That is after Forsmith found the culls? A. Culls.

Q. Is that right? A. That is right. 2834

Q. And you don't remember anything said about culls prior to the time that Forsmith walked back and found the culls? A. No, sir.

Q. Tell us what happened. A. Well, Dr. Gardner went over to examine these culls and he found they were diseased poultry and he destroyed them; these four culls were diseased and he destroyed them, and then he went into the office to make out a ticket for them for having diseased poultry in the place.

Q. What did Aaron and Meyer Schechter do? A. Aaron Schechter and Martin Schechter—Alex Schechter. 2835

Q. Martin is the same as Meyer? A. Meyer Schechter, Alex and Martin went to the office and started a whole argument over it; they got very excited.

Q. What did they say? A. They said, "You cannot give us a ticket for that, for three or four culls, because you can find that in any place." He says, "You won't walk out of here unless you give me a ticket that is a clean slate."

Q. Who said that? A. Alex Schechter.

Q. Did he say anything more? A. He said he

won't walk out of this place unless he gives them a clean ticket. That is all I think he said.

Q. Did anybody call anybody else any names? A. Well, I don't know. I was busy at the time, and after that I walked away, when I heard the argument in the office, I walked away.

Q. Did you hear Martin Schechter say anything? A. I did not hear Martin Schechter say anything.

2837 Q. Going back to Wednesday, June 27,—I beg your pardon. Going back to Wednesday, June 20th, do you recall what customers came to your place to buy poultry that day? A. Yes, sir.

Q. Who? A. The Wagshul brothers and 304.

Q. 304 what? A. Troy Avenue.

The Court: What?

The Witness: 304.

Q. Wait a minute. Have you got the right address of the Wagshul Brothers? A. The Wagshul Brothers at 127 Sutter Avenue and there is one at 169 Nostrand Avenue.

2838 Q. You said Wagshul Brothers and 304? A. 304.

Q. That is a different customer? A. That is a different customer.

Q. Were you there when the Wagshul brothers came in there? A. Yes, sir.

Q. Do you know how much poultry they ordered? A. I think it was three coops.

Q. Do you know whether or not they rejected any of the three coops? A. They rejected a half a coop of poultry.

Q. You were there? A. Yes, sir.

Q. Who else was there? A. My co-worker, Sammy Cohen.

2839

Q. Who else? A. And there was Aaron—Aaron Schechter and Alex Schechter and Meyer Schechter that time.

Q. What happened? A. He—he pulled out, Sammy Cohen, my co-worker, pulled out the three coops to him, pulled out the fowl and handed it to him and he kept on throwing it back, selecting the poultry.

Mr. Rice: This is Count 24. I might say, your Honor, that the evidence offered as to the 82 baskets relates to Count 5.

2840

The Court: Yes, I have that.

Mr. Rice: And most of the other evidence relates to Count 1 as to this witness.

Q. Go ahead. A. He started to select the poultry, picked out one, and if he didn't like it, the color or the way the feathers looked or the way the chicken looked to him, he threw it back.

Q. Were those good chickens? A. Yes, sir.

Q. They were fit for human consumption? A. Yes, sir.

Q. You are sure about that? A. Yes, sir.

2841

Q. Were Alex, Martin and Aaron Schechter there during that procedure? A. Martin Schechter—no, Aaron Schechter and Alex Schechter were there in front.

The Court: Who was there?

The Witness: Aaron Schechter and Alex Schechter.

Q. What was Martin Schechter doing? A. He was right at the scale at that time.

Q. To weigh the poultry after it was selected? A. That is right.

2842 Q. Did any of them raise any objection to the rejections? A. No.

Q. What happened to the rejected poultry? A. We put them back again in the coop and sold them later on during the day.

Q. They were all sold? A. Yes, sir.

Q. You are sure of that? A. Yes, sir.

Q. Were you in the place on the morning of June 25, 1935? A. Yes, sir.

Q. 1934, I beg your pardon? A. 1934.

Q. You were there? A. Yes, sir.

2843 Q. Do you know what customer came into the place that morning, do you remember any particular customer? A. Well, the Wagshaw brothers came in that morning.

Q. Do you remember whether Harry Stauber came in? A. Yes, sir.

Q. Where did he operate a store? A. 1753 Prospect Place.

Mr. Rice: This is Count No. 2, your Honor, page 21.

2844 Q. Do you know whether or not he purchased any unfit chickens? A. Yes, sir.

Q. What kind of chickens were they? A. Unfit for human consumption.

Q. How do you know? A. Because I weighed them off.

Q. Did you see them? A. Yes, sir.

Q. What was their condition? A. Very poor.

Q. Would anybody eat them? A. No, sir.

Q. You wouldn't eat them yourself? A. No, sir.

Q. Could anybody tell they were unfit? A. Yes, sir.

Q. But they were alive? A. They were alive.

2845

Q. And they were slaughtered for Harry Stauber? A. That is right.

Q. And sold? A. And sold to him.

Q. Was anybody else there? A. Yes, Martin Schechter was there and Alex Schechter and Aaron Schechter.

Q. They were all there? A. Yes, sir.

Q. Was there anybody else there, anybody from the Code Authority? A. Yes, sir.

Q. Who? A. Alampi.

Q. And he saw all this? A. Yes, sir.

2846

Q. Did you see him make any notes? A. Yes, sir.

Q. Did you see him do anything else? A. No, sir.

Q. Did you see him mark any of the chickens? A. Well, I couldn't see; I was by the scale, no, unless he marked them when they were alive. I was by the scales at that time helping them pack in the poultry.

Q. Mr. Danziger, you are Jewish, are you not? A. Yes, sir.

Q. Do you eat Orthodox poultry? A. Yes, sir.

2847

Q. Kosher poultry? A. Yes, sir.

Q. Exclusively? A. Yes, sir.

Q. Do you know what is Kosher and what is non-Kosher? A. Yes, sir.

Q. Do you know whether or not a chicken that is damaged on the foot is Kosher or not? A. A chicken damaged on the foot, so long as it is below the knee-joint, is Kosher.

Q. Anything that happens below the knee-joint—— A. Is Kosher.

Q. Doesn't hurt the chicken? A. No, sir.

Q. So far as its Kosher quality is concerned? A. Yes, sir.

Q. You are sure about that? A. Yes, sir.

Q. Therefore, if you toe punch a bird on the toes, on the webs, that would not hurt the poultry, so far as it being Kosher is concerned? A. No, sir.

Q. Are you sure about that? A. Positive.

Mr. Rice: That is all.

Cross examination by Mr. Heller:

2849 Q. Now, Mr. Danziger, I understood you to say that during the month of June Mr. Joseph Schechter had a different place of business at 991 Rockaway Avenue? A. Yes.

Q. And he conducted that business at that place during the entire month of June, 1934? A. I don't know whether it was the entire month.

Q. Pretty near the entire month? A. Yes.

Q. And you give us the date of June 25th as the date that some poultry was being shipped to that place? A. I don't remember.

2850 Q. Well, do you remember testifying something about calling up Joe to ship some poultry to him? A. To him?

Q. Yes, from 858 East 52nd Street. A. He brought poultry to us.

Q. Now, about when was that? A. June 25th.

Q. So that on June 25th he had a different place of business? A. Yes.

Q. Nothing to do with this place? A. Nothing.

Q. Now, Mr. Danziger, you said you were a teamster, a chauffeur? A. Yes, sir.

Q. And you go to the market, do you? A. Yes.

Q. Now, what time do you leave 858 East 52nd Street to go to the market? A. About eleven o'clock or twelve o'clock.

Q. And what time do you come back? A. Sometimes two or three.

Q. And sometimes as late as four? A. Yes.

Q. And as late as five sometimes? A. Yes.

The Court: When is this, in the morning?

The Witness: In the afternoon.

Q. You leave about ten or eleven o'clock in the morning? A. Yes.

Q. And you come back about four or five in 2852
the afternoon? A. Yes.

Q. Every day? A. Yes.

Q. Is it a daily routine with you? A. Yes.

Q. Did you ever receive instructions to cull chickens down at the market? A. Sometimes, and sometimes Joe Schechter buys them, and he gets allowed so much a pound on the coop.

Q. You are now talking about July? A. No, June I am talking about.

Q. Is it a fact that Joe Schechter—I mean Alexander Schechter, was doing the buying in the month of June? A. Alex and Joe. 2853

Q. About how many times would Alex Schechter buy during the month of June? A. Only bought the first two weeks of June.

Q. And how long was he down at the market during the first two weeks of June? A. He was down there all day.

Q. The month of June the first two weeks? A. Yes.

Q. From the 1st to the 15th? A. Yes.

Q. Are you sure about that? A. Yes.

Q. There is no question about it? A. No, sir.

Q. He was down in New York during the entire day? A. Yes.

Q. You would not change your testimony? A. Not during the whole day, from ten o'clock on until the afternoon.

Q. Was he ever there early in the morning? A. Yes.

Q. Many times? A. Yes.

Q. So the only two men that were on the premises most of the time were the other two boys? A. Yes, sir, except on Thursdays, when Al Schechter stayed there longer.

2855 Q. That was the exception, on Thursday? A. Yes.

Q. Now, on May 25th, is that the time that you inspected the baskets to ascertain whether they were inspected or not? A. Yes.

Q. Did you look at the poultry? A. Yes.

Q. Was anything the matter with the poultry? A. No; there was some diseased poultry in the lot.

Q. You examined each and every chicken? A. I don't examine any chickens.

Q. Well, are you guessing or telling us from your own knowledge? A. In the 82 baskets, they

2856 were in the coops, I handed them out to the butchers.

Q. But at the time that they came in did you see anything wrong with them? A. I was not there at the time that they came in; they were brought in during Sunday night or early Monday morning.

Q. Where did they come from? You don't know, do you? A. Sure; they came from Philadelphia.

Q. How do you know they came from Philadelphia? A. Well, there was a tag on each basket marked Philadelphia.

2857

Q. And all you saw were baskets with tags? A. Yes.

Q. That is all you know about it? A. Yes.

Q. Empty baskets with tags? A. Yes, and I know they were there.

Q. That is all you know? A. I know there were fowl in them because I left——

Q. Did you see them there? A. I didn't see them in the baskets, I saw them in the coops.

Q. Is that the only time that chickens came in that you didn't know anything about? A. Yes, sir.

2858

Q. At all times you knew of all fowl that came in? A. Yes, sir.

Q. This is the one exception, the 82 baskets? A. I knew they came in too because when——

Q. Answer my question, wait a minute.

Mr. Heller: Will you repeat the question?

(Last two questions repeated by the stenographer.)

Q. That is correct, is it? A. Yes, sir.

2859

Q. So that you had personal knowledge as to every piece of poultry that came into this place with the exception of this one instance? A. Yes, sir.

Q. There is no question about that? A. Yes, sir.

Q. Every piece of poultry that came in you know had been inspected, don't you, except that shipment? A. Most of the shipments from Philadelphia wasn't inspected.

Q. What do you mean by most of the shipments from Philadelphia were not inspected? A. For instance, if it came in late at night——

2860 Q. Not "for instance," give us specific instances when a shipment came from Philadelphia that you know of that was not inspected? A. Well, there was at that time——

Q. And besides that one time, May 25th——

The Court: He is giving you that; go ahead.

The Witness: Well, the other time that he brought it in, Tuesday morning.

2861 Q. When was that? A. Tuesday night.

Q. May— A. Yes, May 26th, I think.

Q. May 26th——

Mr. Rice: Wait a minute. Have you got those dates straight?

Mr. Heller: That is what he says.

The Witness: That was at the time of the holiday; we had the holiday, the 27th, I think it was.

Q. Sunday, May 27th? A. No, the 29th.

Q. May 29th? A. Yes, sir.

2862 Q. So that on May 25th and May 29th you claim that two shipments came in from Philadelphia and were not inspected? A. Yes, sir.

Q. Besides those two shipments— A. Yes, sir.

Q. Every piece of poultry that came into the premises was inspected? A. Yes, sir.

Q. No question about that? A. Yes, sir.

Q. So that the diseased poultry that you were talking about that was sold during the month of June was inspected poultry? A. Yes, sir.

Q. There is no question about that? A. Yes, sir.

2863

Q. You are sure now that every piece of poultry that was sold at 858 East 52nd Street during the month of June was inspected poultry——

The Court: Wait a minute, except the two——

Mr. Heller: Those were May; those two shipments were May.

Mr. Rice: May I point out the immateriality of this?

The Court: No; he has a perfect right to show this.

2864

Mr. Rice: Very well.

The Court: It isn't immaterial at all.

Mr. Heller: Very material.

Q. There is no question about it now you brought it in yourself, didn't you? A. Yes, sir.

Q. You had it inspected? A. I did not have it inspected. It was inspected on the railroad.

Q. Before you took it? A. Yes.

Q. There is no question about it, is there? A. No, sir.

2865

Q. So that when you say we sold diseased chicken every day during the month of June, you mean to say we sold inspected chickens, but it was diseased chicken, in your opinion, is that right? A. Yes, sir.

Q. Are you a veterinarian? A. No, sir.

Q. Did you take a course to ascertain the diseases of chicken? A. No, sir.

Q. Did you go to school and study husbandry? A. No, sir.

Q. Were you ever raised on a farm? A. No, sir.

Q. You are a city man? A. Yes.

Q. You are a truckman? A. Yes, sir.

Q. You are a laborer? A. Yes, sir.

Q. And you profess to give an opinion as to what is a diseased chicken, do you? A. Yes, sir.

Q What do you call a diseased chicken? A. Any chicken that has a running nose or a swollen head and that gaps for air is a diseased chicken.

Q. You know that as a fact? A. Yes, sir.

2867 Q. And a chicken that has a broken leg is a diseased chicken? A. It don't have to be diseased chicken. It isn't a diseased chicken, a broken leg.

Q. Did you ever, with your co worker, Cohen, did you ever discuss with him about it? A. No, sir, I never discussed with him.

Q. You never spoke to him about what is a diseased chicken? A. No.

Q. A running nose means a cold? A. No, it don't mean a cold.

Q. What does it mean? A. It means it has

2868 bronchitis.

Q. What is bronchitis?

The Court: He is not a medical expert.

The Witness: I am not a medical doctor.

Q. Let us have it if he knows. A. I don't know what bronchitis——

The Court: He has told you what the facts are. He does not have to tell you what the names mean.

Q. On June 1st who came into the store? A. On June 1st? What date was that?

2869

Q. On June 1st. A. What day of the week was that?

Q. You seem to remember June 25th and June 23rd. A. That can be on a Sunday. I don't know the exact dates when they come out. I can ascertain it, if it is a Wednesday, Monday or Tuesday, I have that right to ask.

Q. June 1st was on a Friday? A. Friday.

Q. Who came in the store that day? A. All our customers.

Q. Now, mention their names— A. Three or four.

2870

Q. Specifically who came in on the 1st? A. Tanowitz and Wagshul Brothers and other customers that I don't remember exactly.

Q. You don't recall the names. Who came in on June 4th? A. All our customers that I mentioned, our steady trade came in.

Q. Who are they? A. Three or four, Tanowitz, and 127 Sutter Avenue, that is Wagshul Brothers.

Q. You have two customers? A. No, we have quite a few.

2871

Q. How many came in, specifically, on June 4th? A. We cannot remember how many came in.

Q. But you do remember who came in on June 25th? A. Because I saw them.

Q. Didn't you see them come in on June 4th? A. I don't remember who came in. We have a drifting trade.

Q. Who came in on July 7th? A. I don't remember who came in.

Q. Who came in on July 9th? A. All our customers came in, whoever is there.

Q. You don't know anything about it, do you? A. Yes, I do.

Q. You know that some of our customers must have been in there on a certain date? A. Yes, sir. You cannot remember every one exactly who came in.

Q. That is true, isn't it? A. Yes.

Q. You are definitely sure that the testimony you gave on direct examination you were certain about? A. Yes.

Q. There is no question about it? A. Yes, sir.

Q. You made a memorandum of it? A. Yes, sir.

2873 Q. Every time a customer came in? A. Yes, sir.

Q. You made a memorandum of it? A. Yes, sir.

Q. Will you show us the memorandum? A. I haven't got it with me.

Q. Where is the memorandum? A. I turned it in.

Q. To whom? A. To the Code Authority.

Q. Who asked you to make it? A. The Code Authority.

Q. When did you see them about this case?

2874 A. I saw them a week after the Code took effect.

Q. May 23rd? A. Yes.

Q. Who sent for you? A. Mr. Dale.

Q. He was the attorney? A. Yes, sir.

Q. The lawyer for Mr. Peterson? A. Yes, sir.

Q. He asked you to come to his office? A. Yes, sir.

Q. What was said? A. He asked me to keep a record of what customers came in and what we kill off, what culls we kill off, diseased poultry.

Q. That was on the 23rd of May? A. Yes.

2875

Q. Did you tell the Schechters that you were going to see Mr. Dale? A. No, sir.

Q. Said nothing to them about it? A. No, sir.

Q. Did you tell them you were keeping a record? A. No, sir.

Q. Were you paid for keeping records? A. No, sir.

Q. What salary are you getting now? A. I am getting forty-seven dollars a week.

Q. Plus your chickens? A. Yes, sir.

2876

Q. That amounts to about fifty dollars? A. Yes, sir.

Q. That is the lowest amount you ever got? A. Yes, sir.

Q. And you got as high as sixty? A. Yes, sir.

Q. As high as seventy? A. Yes, sir.

Q. As high as ninety? A. Sometimes.

Q. And you think you were loyal? A. Yes, I did my duty, what I thought was right.

Q. Was your duty to Mr. Dale or the Schechters? A. My duty was to my business.

2877

Q. You have an interest in that business? A. Not in that business. I have a business to myself to protect the people.

Q. You were put there to protect the people? A. I wasn't put there to protect the people. I did that because the Code Authority asked me to.

Q. How did you get this job? Do you remember the time you were picketing in front of this place? A. Yes, sir.

Q. You remember that fact, don't you? A. Yes, sir.

Q. And then you were taken in as an employee? A. Yes, sir.

Q. And you were taken in because of your representation that you could determine whether a cull is a cull, weren't you? A. Yes, sir.

Q. You were chosen for that purpose? A. Yes, sir.

Q. You made that representation to the Schechters? A. Yes, sir.

Q. And they took you on your word? A. Yes,
2879 sir; they did not take me—they took me on my word.

Q. They forced you onto them? A. Who forced me? Nobody forces me into anything.

Q. They took you, didn't they? A. Yes, sir.

Q. Is that a fact? A. Yes, sir.

Q. You belong to a union? A. Yes, sir.

Q. The executive of that union was indicted and convicted, wasn't he? A. That has nothing to do with this here.

Q. I know, but haven't you a grudge against the Schechters because of that? A. I have no
2880 grudge.

Q. You are positive? A. Yes, sir.

Q. You recall the next strike called against them? A. Yes, sir.

Q. You remmeber they did not want to take an additional man, they said they could not afford it? A. Yes.

Q. And you said you were going to force them to do that? A. I did not say anything of the kind.

Q. Your union did? A. Our union did not force anybody.

Q. You called a s[illegible]e? A. Because there was work for another man in there.

2881

Q. You mean you were working too hard? A. Yes, sir.

Q. Do you remember a strike that was called against them? A. Yes, sir.

Q. And do you remember they did not want to take the additional man that they said they could not afford? A. Yes.

Q. Now your work consisted of making secret memorandums? A. My work did not consist of making secret memorandums.

Q. You were working too hard? A. No.

2882

Q. You had told him about making the memorandums? A. Told who?

Q. Mr. Schechter. A. I did not.

Q. You worked right up to this day, did you not? A. Yes.

Q. And you expect to go back tomorrow morning? A. Yes.

Q. And you told them you were before the grand jury? A. Yes, sir.

Q. And they did not fire you, did they? A. No, sir.

Q. And when you needed an advance did you get it? A. I never asked for an advance.

2883

Q. Are you sure about that? A. Yes.

Q. You never asked for a $10 bill in advance? A. I asked once, when I had to have $30—my wife just gave birth to a baby and I had to buy a carriage and I asked for $20.

Q. You got it? A. Yes.

Q. No question about it? A. No.

Q. You were treated like a gentleman? A. Yes.

Q. Now on June 28th, you are very certain that Mr. Alampi, Aaron and Meyer Schechter were in the premises when a certain coop of

chickens was to be slaughtered, and you sent away Mr. Alampi? A. That time you sent him for coffee?

Q. Yes. A. That was on a Wednesday.

Q. You said that was on June 28th, on direct examination, do you remember that? A. It was not June 28th.

Q. Now you change your testimony. A. It was on a Wednesday morning.

Q. Was it June 28th? A. I don't remember the date.

2885

Q. Did you say that on direct examination a few minutes ago? A. June 28th is on a Thursday I think.

Q. Have you already forgotten, from a few minutes ago, until now, whether or not you testified in answer to Mr. Rice's question whether on June 28th there were three people present when the inspector was sent away? A. Yes, sir.

Q. And it was June 28th? A. Yes.

Q. And there were three people that were there, Alampi, Meyer and Aaron Schecter at five o'clock in the morning? A. Yes.

2886

Q. And Alampi was told to go away and get a cup of coffee? A. Yes.

Q. Do you remember saying on direct examination, previous to this answer, that Mr. Alampi was not allowed in the place, that he was kept out of the place, do you remember saying that a few minutes ago? A. Yes, sir.

Q. Now will you tell the jury how he got in there when he was prevented from coming in? A. The day he came in about the argument—on a Wednesday—it was not on Thursday morning.

Q. You mean you don't know what you said? A. I do know what I said, I am explaining to

the jury that it was on June 27th, the time I asked Mr. Alampi to go for a cup of coffee was on June 27th, on a Wednesday morning.

Q. So the answer that you gave on direct examination is erroneous?

Mr. Rice: If your Honor pleases, this witness testified on direct examination that this happened on Wednesday, June 27th, and there was also another threat against Alampi on Thursday, June 28th.

The Court: Go ahead now and ask 2888
questions, the jurors' recollection of the testimony will apply.

Q. So on the 27th he was permitted to come in? A. Yes.

Q. On the 28th he was not? A. No.

Q. And was he in the place at all on the 28th? A. No, sir.

Q. So that if Alampi said he was in he was wrong? A. Alampi was not in there on the 28th.

Q. You say yourself he was not in there? A. 2889
No, sir.

Q. Now you are sure of that date, that date is fixed in your mind? A. Yes, sir.

Q. It is absolutely on the 28th?

The Court: Which?

Q. June 28th that Alampi wasn't permitted to come in? A. Yes, sir.

Q. You are definitely certain about that? A. Yes, sir.

Q. And if Alampi said he was there all day he was mistaken? A. Yes, sir.

2890 Q. And on June 29th he wasn't permitted again? A. June 29th Alampi wasn't there.

Q. Was it June 29th again that he wasn't permitted? A. No, sir, on a Thursday.

Q. On the 28th? A. Yes, sir.

Q. You are sure about that? A. Yes, sir.

Q. You remember that date, do you? Yes, sir.

Q. It is very certain in your mind? A. If the 28th is a Thursday that is the date.

Q. You put that down in your memorandum?

2891 A. I did not put that down, I had it in my mind.

Q. You are just trusting to your memory? A. Yes, sir.

Q. Was he there on the 25th? A. Yes, sir.

Q. Was he there on the 24th? A. Yes, sir.

Q. Was he there on the 23rd? A. What day was the 23rd, if it comes out a Sunday he wasn't there, or on a Saturday.

Q. Were you there on Saturdays and Sundays? A. No, I am not there on Sunday, only on Saturdays.

Q. You do not know whether he was there on

2892 Sunday or not? A. No, sir.

The Court: What date do you want?

Mr. Heller: June 23rd.

The Court: June 21st was a Thursday, the 23rd was Saturday.

The Witness: Alampi was not there on June 23rd.

Q. On June 22nd? A. June 22nd he wasn't in—he was in.

Q. June 21st? A. What day is that, June 21st?

Q. June 21st was on a Thursday. A. Thursday he was in.

Q. June 20th? A. Yes, sir.

Q. June 19th? A. Yes, sir.

Q. June 18th? A. Yes, sir.

Q. June 15th, the Friday before? A. The Friday before I do not remember.

Q. But after June 15th he was there every day except Saturday and Sunday? A. Yes, except that one Thursday, that one Thursday that he wasn't allowed in.

Q. Just the one Thursday? A. Yes, sir.

Q. You are sure about that date? A. Yes, sir. 2894

Q. That is definitely fixed in your mind? A. Yes, sir.

Q. No question about it? A. Yes, sir.

Q. Do you remember seeing him with a notebook there? A. What date?

Q. On all the days he was there. A. He didn't have a notebook, he just took a little card, a tag and marked it down.

Q. With a pencil? A. Yes, sir.

Q. Did he have his badge on his lapel? A. Yes, sir.

Q. Did he have arguments with customers? A. No, sir. 2895

Q. Didn't say a word? A. No, sir.

Q. Quiet? A. Yes, sir.

Q. Peaceful? A. Yes, sir.

Q. Never heard him use bad words? A. No, sir.

Q. You were there all the time from morning until evening? A. Not from morning until evening, from nine to eleven.

Q. You were there from nine to eleven? A. Not all the time.

Q. You were there when the chickens were killed? A. Most of the time when killing was going on I was there.

Q. Some of the time? A. Some of the time.

Q. You were there every day and you saw him there? A. Except that one Thursday, I was there all day then, and that one Wednesday.

Q. June 27th and June 28th? A. Yes, sir.

Q. That is the time that they wouldn't let him come in? A. They wouldn't let him come in that Thursday.

Q. That is June 28th? A. Yes, sir.

Q. They allowed him in on June 27th? A. Yes, sir.

2897 Q. They allowed him in on June 29th? A. No, sir, he didn't come back after that no more.

Q. You are sure about that? A. Yes, sir.

Q. Isn't it a fact that you get into the place on Wednesdays at eight o'clock in the morning? A. No, sir, I never get into the place at eight o'clock Wednesday morning.

Q. Don't you go to New York at eight o'clock in the morning? A. No, sir.

Q. You never did? A. Except on cases that I have a load of empties, and then I am not there when all the killing is done.

2898 Q. Then you do get over to New York at eight o'clock? A. Yes, sir.

Q. So some of the days you get there at eight o'clock in the morning? A. Yes, sir.

Q. Isn't it a fact that you make sometimes two or three trips to New York? A. Yes, sir.

Q. That happens very frequently? A. Yes, sir.

Q. So you are not in the place all the time? A. No, except that one Wednesday I was there all day.

Q. Just one Wednesday? A. That one Wednesday.

Q. June 27th? A. That is right.

Q. Outside of that you are in and out? A. In and out.

Q. Is that correct? A. Yes, sir.

Q. There are many empty coops that you take out of the place? A. Yes, sir.

Q. There is nothing unusual in taking chickens from one coop and putting them into another? A. No, sir.

Q. That is done regularly? A. Yes, sir.

Q. You load the coops on your truck? A. Yes, sir. 2900

Q. And take them to Washington Market? A. That is the empty coops.

Q. And you have them filled up? A. No, I get other coops.

Q. They are filled up in your place? A. They fill them up in different coops.

Q. Those coops have inspection tags on them? A. The coops that I get, yes, sir.

Q. Is that right? A. Yes, sir.

Q. Can you tell us the date of the inspection certificate that was on the coops on May 26th? A. Can I tell you the date of inspection? 2901

Q. Yes. A. May 26 was on it.

Q. You are sure about that? A. Yes, sir.

Q. Do you know the date of inspection that was on the coops that were in the premises on May 27th? A. May 27th should be on there.

Q. Do you know the date of the inspection certificates that were on the coops on May 29th? A. The same date as May 29th is on it.

Q. Do I understand you to say all the poultry is sold the same day? A. Not all of them.

Q. Some of the coops remain over from day to day? A. Yes, sir.

2902 Q. And don't they bear a different date of inspection? A. Yes, but those are not the ones that I come from New York with, those are the ones that remain with the old inspection tag on them.

Q. You mean the poultry that is left in the premises? A. You are talking about the poultry that I bring in.

Q. No, I am not talking about that. A. That is what you are referring to, you asked me when I brought it in in the truck, when I brought it on
2903 the 26th it would bear the tag of the 26th.

Q. When you brought in a load of poultry with inspection certificates on it, on May 26th, it would be dated, the inspection certificates would be dated the 26th? A. Yes.

Q. Unless the poultry is sold the next day that date stays on there? A. Yes, sure.

Q. It may stay on there for three days? A. Yes, sir.

Q. Or four days? A. Yes, sir.

Q. No question about that? A. Yes, sir.

Q. Now you graduated from rabbinical school?
2904 A. No, sir.

Q. Have you gone to Hebrew school? A. Yes.

Q. As a youngster? A. Yes.

Q. Until 13 years of age? A. That's right.

Q. And you profess to state what the Jewish law is with reference to toe punching of a chicken? A. Yes.

Q. And you are qualified to so testify? A. I am not qualified but I know according to the Jewish law anything broken below the knee joint is kosher.

Q. Tell us what chapter in the laws did you find that rule. A. I didn't find it at all. It is known as a fact in the Jewish law.

Q. You know it is a fact from hearsay? A. Yes.

Q. You have not examined Jewish literature on the subject? A. No.

Q. And you are not the son of a rabbi? A. No.

Q. And your grandfather wasn't a rabbi? A. No, but he was an Orthodox Jew.

Q. Now is it unusual for chickens to die? A. 2906
No.

Q. They are mishandled, aren't they? A. Sometimes.

Q. They are packed one on top of the other? A. Yes.

Q. And that doesn't mean that a chicken is diseased. If a chicken gets hit on the head, and dies, that doesn't mean that it is diseased? A. Well, if a chicken was hit on the head by being packed on top of one another it would usually be bruised on the head.

Q. It would have a fracture? A. Yes.

Q. And that is not permitted to be eaten by 2907
Jewish people? A. No.

Q. Yet you would not die from that? A. No.

Q. And you have taken chickens to your own home, from the Schechter Poultry place? A. Yes.

Q. And you have eaten them? A. Yes.

Q. And you have no objection to eating those, have you? A. No.

Q. Do you know whether there is a difference of opinion as to what is a cull or what is not a cull? A. Yes, there is.

Q. Some butchers say this is a cull and somebody differs with them? A. Yes.

2908 Q. You may say it is a cull and somebody may differ with you? A. Yes, but when I say it is a cull it is a genuine cull.

Q. Now what do you call a cull? A. Well, when the chicken has no meat on her breast, it is just the frame of a chicken.

Q. You call that chicken a cull? A. Yes.

Q. Will you die if you eat that chicken? A. If it is not diseased, you won't.

Q. Well, can you tell whether it is diseased or not, without cutting it open? A. By looking at
2909 the face you can tell.

Q. You can tell whether or not it is diseased? A. Yes.

Q. What disease? A. I don't know what disease.

Q. You know it is a disease? A. Yes.

Q. Now you want the jury to believe that? A. Yes.

Q. That you can tell if it is a disease, just by looking at the chicken? A. Yes.

Q. Now, do I understand that both you and Cohen picked the chickens out from the coops?
2910 A. Yes.

Q. You would hand them to the butchers? A. Yes.

Q. During some sales on Thursday mornings there are a lot of customers in the place? A. Yes.

Q. You are busy taking out chickens from the coops, aren't you? A. Yes.

Q. Giving them to the buyer? A. Yes.

Q. And he gives them to the shochet, is that right? A. Yes.

Q. You pay attention to your work? A. Yes.

Q. Cohen pays attention to his? A. Yes.

2911

Q. You do not know what goes on in the place? A. No—I know what is going on in the plate.

Q. You mean while you are doing your work? A. Certainly, we can see what is going on in the place.

Q. Do you pay attention to pulling out the chickens? A. That is right.

Q. Or do you pay attention to what is going on elsewhere? A. I pay attention to both.

Q. You observe everything? A. Yes.

Q. All through the day? A. All through the day.

2912

Q. That you are in there? A. Yes, sir.

Q. And when you are there? A. Yes.

Q. You go down to the office? A. I don't know what goes on in the office, inside, privately, I don't know.

Q. You take the chickens out, give them to the buyer, who gives it to the shochet, and then you turn around and see how it is weighed? A. No, sir.

Q. You pay attention to the weighing? A. I only pay attention to what I am doing at that time.

2913

Q. That is all you know? A. That is all I know.

Q. During these periods of time that you testified about in the month of June, that the customers rejected the chickens, isn't it a fact that the customer said that looks like a cull to me, I don't want it? A. No, she just threw it back in the coop, didn't like it.

Q. That is all she said? A. That is all.

Q. She felt it? A. She just looked at it.

Q. A woman? A. A woman, he or she.

Q. You have women customers there? A. Yes, sir.

2914 Q. Wholesalers? A. Yes.

Q. They feel the chickens with their hands? A. Yes.

Q. And they said they didn't like it? A. They didn't say they didn't like it. They just threw it back in the coop, they did not want it.

Q. Did not say a word? A. No.

Q. Did not say it was a cull in their opinion? A. No.

Q. Not one customer? A. Yes, one of them, when there was a real cull, he would say, this is
2915 a cull, and throw it back.

Q. In your opinion they came to the conclusion it was a real cull? A. Not all of them, just one or two.

Q. Just one or two? A. Just one or two chickens they said was a cull, not all of them, and they threw them back. Lots of times they just say they don't like it and throw it back.

Q. And these chickens came in the regular chicken crates? A. Yes.

Q. Mixed with good ones? A. Yes.

Q. That is how you got them in the market?
2916 A. Yes.

Q. That is how they loaded them? A. Yes.

Q. Except those you found were no good and those you threw out in the market, West Washington Market? A. Some of them.

Q. You picked out some? A. Yes.

Q. Threw them away? A. Yes.

Q. Bring back the other good ones? A. Yes.

Q. And the butcher says in his opinion some are culls and he doesn't take them? A. He doesn't say they are culls, he just throws them back.

Q. That makes you think they are all diseased chickens? A. No.

Q. They are not all diseased chickens? A. They are not all diseased chickens.

Q. That is, the chickens you bring in, are diseased chickens? A. I didn't say they were all diseased chickens.

Q. The chickens you brought in during the month, did you bring in any diseased chickens? A. Some of them.

Q. You knew they were diseased in the market? A. I did not know they were diseased in the market. You cannot see every chicken in the 2918
crate.

Q. You saw the inspection label? A. Yes, but you cannot see every chicken when you are loading them.

Q. The inspection certificate said they were fit for human consumption? A. I just saw the inspection certificate. I did not know what they said or anything.

The Foreman of the Jury: Your Honor, may we have a recess?

The Court: Yes. Do not talk to anybody about the case. 2919

(Short recess.)

Redirect examination by Mr. Rice:

Q. Now, Mr. Danziger, you have talked this testimony over with me from time to time? A. Yes, sir.

Q. And you have refreshed your memory from time to time? A. Yes, sir.

Q. And you have talked with Mr. Dale, the associate counsel of the Code Authority? A. Yes, sir.

Q. And you made out one affidavit for him? A. Yes, sir.

2920 Q. And you were called up to the Code Authority office? A. Yes, sir.

Q. And he asked you to make out an affidavit? A. Yes, sir.

Q. And did he urge you to make one? A. No; he said, "You can make it out of your own free will."

Q. And you made it out, did you? A. Yes.

Q. And your co-worker, Mr. Samuel Cohen, made out an affidavit? A. Yes.

Q. And you were requested to come up there?

2921 A. Yes.

Q. Now, you have recently refreshed your memory from the affidavit of yourself and Mr. Cohen's affidavit, is that so? A. That is right.

Q. And you have refreshed your memory as to dates? A. Most of the dates.

Q. Do you remember what day of the week it was that Alampi first came to your place—was it on a Thursday? A. I don't remember exactly what date; the first time he came to our place.

Q. You don't remember exactly? A. Not exactly.

2922 Q. Do you remember about how long it was before the date that he was excluded from the premises? A. It was about a week.

Q. One week? A. One week.

Q. The day that he was excluded you say was June 28th? A. Yes.

Q. On a Thursday, was it? A. That is right.

Q. Therefore, the first day that Alampi came was on June 21st, on a Thursday? A. Yes.

Q. And he was there on Friday, June 22nd? A. That is right.

Q. But he was not there on June 15th, was he?

Mr. Heller: If your Honor pleases, I object to counsel suggesting. The witness said he was and now he tells him to say he was not.

The Court: You may ask him if you want to, but do not tell him that he was not there.

Q. Then what was the first day that Alampi was there? A. June 21st.

Q. And what day of the week was that? A. 2924
That was on a Thursday.

Q. And that is the first time that he was there? A. Yes.

Q. And he was there several days after that? A. Yes.

Q. Up until June 28th? A. Yes.

Q. On Thursday, June 28th, the day that you say that he was excluded? A. Yes.

Q. You have that straight now, have you? A. Yes.

Q. That is right, is it? A. Yes, sir.

Q. Now, after poultry from the West Wash- 2925
ington Market has been brought to the Schechter Market, can some things happen to the poultry between the time it is inspected at the railroad terminal and the time it is sold at the Schechter Market? A. Oh, yes.

Q. Can some of the poultry become diseased? A. Yes, sir.

Mr. Heller: I object to that, if your Honor pleases; this witness is not qualified as an expert to testify on what might happen to poultry.

Q. Have you observed what has happened?

2926

The Court: He can testify to a fact, but he is not here to give expert testimony.

Q. Have you observed what has happened? A. Sometimes they get a little weaker when they come in.

Q. Have you observed anything else? A. Yes, sir; sometimes some of them die during the time they come in.

Q. That is what happened on June 28th? A.

2927 Yes.

Q. Some of them died? A. Yes, sir.

Q. But the necks were cut and they were weighed?

Mr. Heller: If your Honor pleases, I object to counsel summarizing the testimony that we have already had.

Q. In spite of the fact that the poultry coming in from West Washington Market is inspected, you have seen diseased poultry on the premises? A. Yes, sir.

2928

Mr. Heller: I object to the characterization; in the first place it is not even proper redirect examination.

The Court: You should not tell him what he saw. Ask him questions, and if he has already testified to it there is no need of repeating it.

Mr. Rice: Very well.

The Court: Did he see something, when was the time that he saw it?

Mr. Heller: I think he has testified very fully as to what he saw.

Mr. Rice: I think he has covered it fully on direct examination; I quite agree with you.

Mr. Heller: All right.

Q. Now, when you were speaking on direct examination, when I questioned you first about diseased poultry and unfit poultry that you had seen in the place every day from May 16, 1934, to July 26, 1934, you weren't talking about a chicken with broken wings, were you? A. No, sir. 2930

Q. What kind of chickens were you talking about?

Mr. Heller: I object to that; if he is going to explain what his testimony was he should not do that; the jury heard it.

The Court: You went ahead and asked him to give any days that certain things happened, and he testified to the days. You can't bind him with general statements. It must be something exact. If he told you certain days, he may explain as to certain days. 2931

Mr. Rice: All I want, if your Honor please, is just the type of chickens that he has been talking about.

The Court: All right, but do not tell him what to say; let him testify.

Q. Very well, tell us——

The Court: What do you mean by chickens unfit for human consumption?

The Witness: Chickens that have a tumor inside, and that you can feel them as when you are handling them, and chickens that have no meat on them, that have a running nose, and swollen head.

2932 Q. Have you ever heard of tubercular chickens? A. Yes, sir.

Q. Chickens with tuberculosis? A. Yes, sir.

Q. Did you include them? A. Well, yes, sir.

Q. That is the kind of chickens that you were talking about on direct examination? A. Yes, sir.

Q. You weren't talking about the culls that are simply seconds? A. No, sir.

2933 Q. Now, you said on cross examination that sometimes Joseph or Alex Schechter told you to cull the chickens at West Washington Market. A. Yes, sir.

Q. What did they tell you to do on other occasions? A. On other occasions they would make some kind of a deal with the weighmaster or the commission man, or whoever was in charge at the time when they would buy the poultry, so much for a coop.

Mr. Heller: If your Honor please, if he is going to testify as to that, he should go into details; let us have the days, and so

2934 forth.

Q. When was this, when did this happen after May 16, 1934? A. May 17th or May 18th, any one of the days——

Q. For what period of time? A. Until the time, until today.

Q. Until today? A. Yes, sir.

Mr. Heller: I want to get the dates, whether it was May 17th, 18th, 19th or 20th.

Mr. Rice: Obviously, your Honor,——

The Witness: I can't tell you each date.

Mr. Rice: He can't tell the exact date.

Q. Tell us as nearly as you can any occasion when this happened after May 16, 1934? A. Well, it happened on Wednesday, May whatever date it was.

Q. Wednesday after May 16th? A. That is right.

Q. First Wednesday after May 16th? A. That is right.

Q. What happened?

Mr. Heller: Let us fix the date, Mr. Rice, please. May 23rd? 2936

Q. You think it was about May 23rd? A. Yes, sir.

Q. You would not say the exact date was May 23rd, would you? A. I won't say exactly the date because——

Q. It was a Wednesday shortly after May 16, 1934? A. That is right.

Q. What happened on that Wednesday? A. Well, I would go to the railroad and he would say to me, "Pull in to the car there"——

Q. Who would say that? A. Joe Schechter, or 2937
Alex Schechter, who was down there at the time.

Mr. Heller: Who was there? Let us get the names of the persons.

The Witness: I don't remember the one, I don't remember who was there. Both of them were down.

Q. Both of them there? A. Yes, sir.

Q. And they both said that to you? A. Not both. One of them said it to me.

Q. You don't know which one? A. No, sir.

Q. They were both present? A. Yes, sir.

2938 Q. What did they say? A. To pull in to the car and load on the poultry. Nothing was said about culling.

Q. What else did they say to anybody else?

Mr. Heller: Now, he said nothing else was said.

Mr. Rice: Yes, he did. Just a moment ago he said that they made a deal with the weighmaster.

Mr. Heller: All right, let us hear
2939 about it.

Q. What sort of deal was it? Let us hear what was said. A. He said that he would allow him so much to the coop.

Q. Who said that? A. Weighmaster to Joe Schechter or Alex Schechter, who at that time was there at the railroad, so much to a coop, two pounds, or a pound, or whatever it is, to allow him instead of culling.

Q. That is, they would give him an allowance of two pounds? A. To each——

2940 Q. Per coop? A. Per coop.

Q. In lieu of culling? A. That is right.

Q. That is, in lieu of taking out the unfit chickens? A. That is right.

Q. And they sell the whole coop? A. That is right.

Q. Including the unfit chickens? A. Yes.

Q. But the Schechters would get the benefit of the two pounds deduction, or something like that? A. Yes.

Q. You heard this arrangement made? A. Yes.

Q. Did you hear it made on several occasions after May 16th? A. Yes, sir.

Mr. Heller: I object to "several occasions" and move to strike it out.

The Court: Yes.

Mr. Rice: I will withdraw it.

Q. Did you hear such conversations between Joseph Schechter, Alex Schechter and the weighmaster at West Washington Market on any other occasions? A. Yes, sir.

Q. After May 16th? A. Yes, sir.

Q. When? A. The following day, or the following week, I don't remember exactly what day. 2942
Most of the times we do he does make those suggestions.

Q. How many times would you say you heard that between May 16th and July 26th, a little over two months? A. I cannot tell you exactly how many times, but lots of times he just said, "Leave them alone and load them on." I don't remember exactly how many times he would tell me. Sometimes I would make two trips a day, and he could tell me three or four times during that week to leave them alone and make—and they make that proposition. I don't know every 2943
time they make that proposition because I did not sit there and watch them. My job is on the truck, not watchman.

Recross examination by Mr. Heller:

Q. What is the name of the weighmaster? A. There is one Eddie Goodheart at the Chelsea stand.

Q. And with whom else was such a deal made? A. I don't know all the names of the weigh masters.

2944 Q. You stand and listen in to every word that was said on each of those occasions between Joseph and Alex and the weigh master? A. Yes.

Q. And you remember the days of the month? A. I don't remember the dates; I cannot remember the dates exactly.

Q. Do you remember any other gentlemen with whom such an arrangement was made besides Mr. Goodheart? A. Yes, there is the other men there, but I don't know their names; there
2945 may be 50 or 60 weigh masters, and it is just this one house that he deals with, I know the weigh master of that house.

Q. That is, the Chelsea Commission Merchants? A. Yes.

Q. And he made deals with that man? A. Yes.

Q. And he made a deal before the poultry was loaded on your truck? A. Yes.

Q. And was that particular poultry inspected poultry? A. Yes.

Q. And it had a label on it? A. Yes.

Q. And you mean that he made a deal about
2946 the price, don't you? A. Not about the price, about the weight. I don't know about the price —he told me not to cull them, that is all I know, to put them on the truck. I do not know what deal he made, but he usually allows him two pounds on the coop instead of culling.

Q. And who tells you to cull them? A. Joe does.

Q. Do you always cull them? A. Not all the time.

Q. Can you always cull them? A. Not always.

Q. Do the commission merchants always permit you to cull them, at all times? A. Not when

there is a scarce market, they don't, but they still give you the allowance.

Q. In other words, he makes a deal with the commission merchant for the poultry? A. Yes

Q. And he fixes a price? A. Yes.

Q. And he gets an allowance on weight? A. Yes.

Q. And that is all that happens? A. Yes.

Q. But the poultry was nevertheless inspected poultry? A. Yes.

Q. Now, among that poultry there were some lean chickens as well as fat ones? A. Yes. 2948

Q And he did not want to pay the same price for a lean one as for a fat one? A. I don't know what price he made with him.

Q. Do you know what a tumor is? A. Yes.

Q. Did you ever have one? A. No, sir.

Q. Do you know how you can ascertain whether a person has a tumor or not? A. I don't know what you call a tumor, but I call a tumor a lump inside the body.

Q. And you can feel that chicken and find that it has a tumor by holding the stomach of a chicken? A. Yes. 2949

Q. Now, have you ever heard about the fact that doctors cannot tell about a tumor until they cut your belly open? A. Well, a person is different than a chicken.

Q. A chicken hasn't the same kind of a tumor as a human being, is that it? A. I don't distinguish that that way.

Q. Well, do you know how to distinguish them? A. No; I am not a medical doctor.

The Court: Now, he told you, he said that the way he discovered it was by feeling. He has not been feeling human beings.

Q. Have you ever cut a chicken open and found a tumor? A. Yes.

Q. Can you describe it to us, can you? A. Yes, sir.

Q. Now, describe to us what you found and what you diagnosed to be a tumor after you cut it open? A. Well, it is when you open it up, it has a little round ball, a pretty big one, and any chicken that you cut open and you find that——

2951 Q. Where is that located? A. I don't know where it is located; I cannot explain that. I am not a doctor.

Q. Where does that appear to be located when you cut it open? A. It is located on the intestines.

Q. On the inside of the chicken? A. Yes, sir.

Q. It is surrounded by the intestines? A. No, it is not surrounded by the intestines; it hangs down by the intestines.

Q. Is there anything else that hangs down from the intestines? A. There is the stomach there, I don't know how you call it in English.

2952 Q. That is round too? A. That is very different.

Q. That is a bumpy thing? A. You cannot feel that when you feel a chicken.

Q. But the tumor you can feel? A. Yes, sir.

Q. You are saying that when you feel a bird you can feel a tumor, and you can be sure you are not feeling fat, can you? A. Oh, no, I know the difference between fat and a tumor. I don't know that that is the right word; maybe in our way we call it it is a killer.

Q. What is a killer? A. It is some little rupture or something like that, I can't explain it.

Q. So you diagnose a tumor as a rupture? A. Oh, I don't know what it is. 2953

Q. Have you ever diagnosed a chicken as to whether it was tubercular or not? A. Well, no.

Q. You do not know what a tubercular chicken is? A. I can tell one when its nose is running.

Q. When its nose is running you call that a tubercular chicken, is that it? A. Well, no,——

Q. Can you define the word "tubercular"? Can you give a definition of it? A. No, I do not.

Mr. Heller: That is all. 2954

Mr. Rice: That is all.

(Witness excused.)

WILLIAM H. CLOWARD, called as a witness on behalf of the Government, having been duly sworn, testified as follows:

Direct examination by Mr. Rice:

Q. What is your business, Mr. Cloward? A. Why, I am secretary and controller of Risser & Rabinowitz, Inc., Philadelphia. 2955

Q. What are they? A. Wholesale poultry dealers.

Q. Do you sell occasionally to wholesale slaughter house men in New York? A. Yes, sir.

Q. Do you deal with the A. L. A. Schechter Poultry Corporation? A. We have had dealings with them.

Q. Did you have dealings with them in May, 1934? A. Approximately that date; I haven't a memorandum here.

Q. Did you have dealings about the same time with Joseph Schechter of the Schechter Live Poultry Market, Inc.? A. Yes, sir.

2956 Q. At 991 Rockaway Avenue, Brooklyn? A. Yes, sir.

Q. You have had dealings with both of those establishments? A. Yes, sir.

Q. Just what is the nature of your dealings with the two Schechter establishments? A. Selling them live poultry.

Q. Who do you deal with, what individuals do you deal with? A. The bills have been made out to both A. L. A. and Joseph Schechter. I do not know them as separate individuals at all. To
2957 us it is simply a Schechter account.

Q. That is, you treat Joe Schechter's establishment as the same account as A. L. A. Schechter? A. As far as our accounting records go, yes, sir.

Q. What individuals do you deal with? A. I do not know that. I merely handle the accounts as they are in the office.

Q. You do not know any of the Schechter brothers personally? A. No, sir.

Q. Did you sell poultry to the A. L. A. Schechter Poultry Corporation on May 26, 1934?
2958 A. I haven't exact dates in mind, but around that time we did, sir.

Q. You appeared before the Grand Jury, did you not? A. Yes, sir.

Q. And at that time you were given a subpoena to produce certain records from Risser & Rabinowitz? A. Yes, sir.

Q. And you produced a bill or an invoice dated May 26th of poultry sold to A. L. A. Schechter Poultry Corporation, 858 East 52nd Street, Brooklyn, did you not? A. Yes, sir.

Q. Is this the invoice? A. Yes, sir.

Q. Is this regularly kept as a part of your business records? A. Yes, sir.

2959

Q. Accurately kept? A. Yes, sir.

Q. How many pounds of poultry did you sell to the A. L. A. Schechter Poultry Corporation on May 26, 1934? A. This one bill calls for 5,200 pounds.

Q. Is that what you sold on that day? A. As far as I know, unless there are bills here.

Q. That is at least part of what you sold on that day? A. That is at least part, yes, sir.

Q. How many baskets of poultry were there in those 5,200 pounds? A. I could not answer that from the invoice definitely.

2960

Q. Doesn't your invoice indicate the number of baskets? A. Only approximately.

Q. May I see it? A. (Witness handing paper to counsel.)

Q. This particular invoice does not indicate the number of containers? A. That is right.

Mr. Rice: I offer this in evidence.

Mr. Heller: No objection.

Mr. Rice: This relates to Count 4 and also Count 1.

(Marked Government's Exhibit 32 in evidence.)

2961

The Court: What is it?

Mr. Rice: It is an invoice from Risser & Rabinowitz, commission dealers, Philadelphia, showing a sale of 5,200 pounds of poultry to A. L. A. Schechter's Poultry Corporation, May 26, 1934.

Q. This bill indicates the price paid for those 5,200 pounds of poultry——

Mr. Heller: The bills speaks for itself. It is all on there.

2962

Mr. Rice: It may not be perfectly clear that this is dollars and cents. I simply want to clear it up.

Q. Does that indicate the price paid? A. Yes, sir.

Q. Which was how much? A. Fifteen and three-quarters cents on two classes.

Q. I mean the total price paid. A. $807.52.

Q. That is true as to each one of your invoices? A. Yes, sir.

2963 Q. They indicate at the bottom the price charged? A. Yes, sir.

Q. For the poultry? A. Yes, sir.

Q. On the following Monday, May 28th, did you sell additional poultry to the Schechter Brothers? I hand you two invoices of Risser & Rabinowitz, both of them dated May 28, 1934. A. One for Joseph and one for A. L. A.

Q. You made one sale to Joseph Schechter? A. From the invoices, yes, sir.

Q. In what amount? A. $1,148.20.

Q. In what amount in pounds? A. Joseph

2964 Schechter was 7,209 pounds.

Q. In how many containers? A. I would not know whether these are containers or not.

Q. Doesn't it indicate containers on the left-hand side of the invoice?

Mr. Heller: I have no objection to those bills going in, and they will speak for themselves. Let counsel offer them instead of reading them. I haven't any objection if they go in.

Mr. Rice: It may clarify the record, your Honor, if I ask the witness——

2965

The Court: But he says he is willing to take it in; is there anything that is not understood on it?

Mr. Rice: Perhaps so, your Honor, the number of containers. May I see the invoices? (Counsel examining papers.)

Q. Now, on the left-hand side of these invoices, addressed to Joseph Schechter, you indicate various numbers of containers of various kinds of chickens, and a total of 111. Does that mean 111 containers? A. Yes, sir, 111 coops.

2966

Q. Or baskets, it may have been baskets, may it not? A. Possibly, but we do not use the New York style of coops in Philadelphia at all; sometimes they bring their own.

Mr. Rice: I offer in evidence this invoice of May 28, 1934, addressed to Joseph Schechter, showing the sale by Risser & Rabinowitz of 7,209 pounds of poultry in 111 baskets.

Mr. Heller: I object to counsel characterizing about the baskets, your Honor. The document speaks for itself.

2967

The Court: Does the document say baskets or coops, or just what does it say? Just containers?

Mr. Heller: It doesn't say anything—oh, yes, it says coops.

Q. It does say coops in two places, but what is your practice?

Mr. Heller: I object to counsel's attempt to vary a written document.

Mr. Rice: I can ask him what his practice is.

The Court: What does coops mean?

2968 Q. What do coops mean?

Mr. Heller: I object to the varying of the writing on a document in evidence.

The Court: I don't think it is marked in yet. He can tell us what that word there means. Look at the paper. What does that mean?

The Witness: I don't feel qualified to testify on the question here. As I say, there are two kinds of coops used in the
2969 market, and I am not familiar enough with the live poultry operation to definitely state just what they do mean.

Q. When you supply the containers what do you supply?

Mr. Heller: I object to any interrogation with reference to these documents.

Mr. Rice: But I believe I can ask him; he can testify what they supply when they supply the containers.

The Court: But he said he was not
2970 familiar enough to tell you.

Mr. Rice: I think he knows this, your Honor.

Q. Do you know what kind of containers are used when you furnish the containers? A. Small spindle coops.

Q. Are they sometimes called baskets? A. We refer to them as coops, poultry containers.

Q. Will you describe them? A. The container they use in Philadelphia is a regular poultry coop about that long (indicating), and more or less square, with an opening at the top.

The Court: Now, when you say "that long," how long is that?

The Witness: About three and a half feet or four feet, by about three feet wide, and just high enough for a chicken to stand up.

Q. And about how many chickens does it contain? A. It would depend on the size.

Q. Ordinarily what would be the range? A. I don't know that.

Q. 12 or 13 chickens? A. Possibly more than 2072 that.

Mr. Heller: I object to counsel stating. He says that he doesn't know.

Q. About how many pounds, then? A. I don't know offhand.

Q. Can you estimate the approximate number of pounds? A. I would not want to.

Mr. Rice: I ask that this document be marked in evidence.

(Marked Government's Exhibit 33 in 2073 evidence.)

The Court: If the question of pounds can be mathematically demonstrated, the jury, of course, is competent to do that.

Mr. Rice: Your Honor is right. And may I state to the jury that Exhibit 33 indicates the sale of 7209 pounds in 111 containers?

The Court: Coops.

Q. Now, on the same day did your office make an invoice indicating the sale to the A. L. A. Schechter Live Poultry Corporation? A. Yes, sir.

2974 *William H. Cloward—By Govt.—Direct*

Q. Of how many pounds? A. 7144 pounds.
Q. In how many containers?

Mr. Heller: I again consent that the document be offered in evidence, and the document will speak for itself.

Mr. Rice: I offer it in evidence.

(Marked Government's Exhibit 34 in evidence.)

Mr. Rice: Gentlemen of the Jury, Exhibit 34 is an invoice of Risser & Rabinowitz, addressed to the A. L. A. Schechter Live Poultry Corporation, dated May 28, 1934, indicating the sale to the A. L. A. Schechter Live Poultry Corporation of 7144 pounds in 38 coops.

2975

Q. Now, do you know who paid for both of these lots of poultry sold on May 28, 1934, the first one being sold to Joseph Schechter, in the amount of 7209 pounds, and the second to the A. L. A. Schechter Live Poultry Corporation, of 7144 pounds? A. I would not be able to state that without having my memorandums here. In some cases I did look it up. The Schechter account to us is a cash sale account which we do not bother keeping separately.

2976

Q. You prepared an affidavit on June 19, 1934, did you not? A. Yes, sir.

Q. Will you look at the bottom paragraph of this affidavit, on the first page, and see whether your memory is refreshed? A. Yes, sir, an investigation we made at that time indicated that a check——

Mr. Heller: I object to "we made" unless he made it himself.

The Witness: An investigation that I made, indicated that a check was received from A. L. A. Schechter covering both bills.

Q. The total amount was how much? A. $2,288.43.

Q. Covering both the sale to A. L. A. Schechter Poultry Corporation and the sale to Joseph Schechter of May 28, 1934? A. Yes, sir.

Q. Both of them paid for by the check of A. L. A. Schechter? A. Yes, sir. 2978

Q. Now, on May 30th did you sell additional poultry to the Schechter Brothers? I hand you three invoices dated May 30th from Risser & Rabinowitz and ask you whether or not you made the sales indicated in those three invoices? A. Yes, sir.

Q. You did make the sales? A. Yes, sir.

Q. Who did you make the sales to and in what amounts? A. We have a bill here made to A. L. A. Schechter for $87.58——

Q. The pounds? A. The pounds are 565——

2979

Mr. Heller: I consent that these documents go in as to all sales made.

Mr. Rice: Very well. I offer these three invoices as one exhibit.

(Marked Government's Exhibit 35 in evidence.)

Mr. Rice: Exhibit 35 is three Risser & Rabinowitz invoices, each of them dated May 30, 1934. The first indicates a sale to Joseph Schechter of 6577 pounds, contained in 105 containers. That is the invoice to Joseph Schechter, dated May 30, 1934, 105 containers, 6577 pounds. The price charged is $1,019.44. The second in-

2980 voice indicates a sale to A. L. A. Schechter Poultry Corporation on the same date, May 30, 1934, of 10,723 pounds, for which a price of $1,647 was charged. The third invoice indicates a sale to A. L. A. Schechter Poultry Corporation, the same date, May 30, 1934, of 565 pounds contained in 8 containers.

If your Honor please, we have added up the aggregate amounts contained on Exhibits 32, 33, 34 and 35, and we have as-

2981 certained that the total amount of poultry sold that week, or commencing May 26th——

Mr. Heller: What is this, a summation, Mr. Rice?

Mr. Rice: No, we are just giving the mathematics.

Mr. Heller: The jury will find that out.

Mr. Rice: The total amount is 37,418 pounds. That is all.

2982 *Cross examination by Mr. Heller*:

Q. Mr. Cloward, is there any mystery about this sale, anything unusual? A. Nothing that I know of.

Q. It was done in the regular course of business? A. Yes, sir.

Q. You would sell them again if they paid you for the merchandise? A. Yes, sir.

Q. They paid you for this merchandise? A. Yes, sir.

Q. Is that right? A. Yes, sir.

Q. The same price that someone else paid you, is that right? A. That is right.

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Q. This wasn't diseased chickens, was it, you sold them? A. No, sir.

Q. Good, wholesome chickens? A. Yes, sir.

Q. That is all you deal in? A. Yes, sir.

Q. The finest brand there is? A. Yes, sir.

Q. Isn't that right? A. Yes, sir.

Mr. Heller: That is all.

Mr. Rice: That is all.

(Witness excused.)

2984

AMOS M. WHITMORE, called as a witness on behalf of the Government, having been duly sworn, testified as follows:

Direct examination by Mr. Rice:

Q. Mr. Whitmore, I hand you Government's Exhibit 32 and ask you to look at that and refresh your memory as to whether or not you sold any poultry from Risser & Rabinowitz that day, on May 26, 1934, to Schechter Brothers?

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Mr. Heller: I object to that, the document speaks for itself, and shows a sale was made.

The Court: He is only using that to refresh his recollection. He asked him, now having refreshed his recollection, can he say if he sold it.

The Witness: Yes, sir, this is in my handwriting.

The Court: That isn't the point. Look at that, and having looked at it then after you refresh your recollection tell us what your recollection now is.

2986 Q. Do you recall the sale on that date? A. I do.

Q. Do you recall how many pounds were sold? A. Not offhanded.

Q. That invoice indicates 5200 pounds, does that accord with your recollection? A. Yes, sir.

The Court: Is that in your handwriting or somebody else's?

The Witness: This is in my handwriting.

2987 Mr. Heller: In order to make progress I will concede whatever is on the document we bought and got.

The Court: He says it is in his own handwriting anyhow.

Mr. Heller: All right, there is no dispute about that.

Q. Mr. Whitmore, what is your position with Risser & Rabinowitz? A. Plant superintendent.

Mr. Heller: I cannot hear you.

2988 Q. Will you speak a little louder? A. Plant superintendent.

Q. What are your functions as to the sale of poultry to New York slaughter house men? A. Beg pardon?

Q. When a New York slaughter house man comes to Philadelphia to purchase poultry from Risser & Rabinowitz, what are your functions in connection with the sale? A. Well, to show him the poultry, what we have to offer, and to supervise the loading.

Q. Will you speak up a little bit please? A. Supervise the loading, see that the poultry is placed in coops and weighed properly.

Q. Do you recall whether or not there were 82 baskets of poultry in that 5200 pound lot sold on May 26th? A. No, I don't.

Q. Do you recall how many trucks called for the poultry purchased by the various Schechter brothers on that lot? A. There were three.

Q. Do you recall how many baskets of poultry were taken on the truck that was hauling poultry to A. L. A. Schechter Poultry Corporation? A. No, sir, I don't.

2990 The Court: Do you see anybody here you dealt with on that day?

The Witness: Mr. Abe Schechter, there.

The Court: Which one?

The Witness: Abe Schechter.

The Court: Which one is that?

The Witness: That gentleman second from the end of the table.

The Court: That is right. That is the defendant Aaron Schechter.

2991 Q. You call him Abe Schechter? A. Yes.

Q. You dealt with him on that day? A. Yes.

Q. You made the sale to him? A. Yes.

Q. Was any other Schechter brother present? A. No, sir.

Q. Who did you charge the poultry to? A. Half——

Q. On that day. A. Half was supposed to be charged to A. L. A. Schechter and the other half to Joe Schechter.

Q. Approximately how many pounds are contained in a basket of poultry? A. A basket is approximately—it is 60 pounds.

Q. Approximately 60 pounds? A. Yes.

2992 Q. What kind of containers does Risser & Rabinowitz furnish to the New York buyers? A. Baskets.

Q. Always baskets? A. Yes.

Q. Never the large coops? A. No, we don't have any.

Q. Was this particular poultry delivered to the Schechters in baskets? A. Yes, sir, these here were.

Q. If there were 5200 pounds it would be somewhere around 82 baskets? A. Yes, sir.

2993 Q. Does that accord with your recollection? A. It does.

Q. On the following Monday, May 28, did you make additional sales to the Schechter establishments? A. I did.

Q. I hand you Government's Exhibits 33 and 34 and ask you whether you recall making the sales indicated on those two invoices, one sale being 7209 pounds to Joseph Schechter and the other being 7144 pounds to A. L. A. Schechter Poultry Corporation? A. That is correct.

2994 Q. Who did you deal with on that day? A. Mr. Abe Schechter.

Q. Abe Schechter? A. Yes.

Q. Was anybody else there? A. No.

Q. Did you negotiate for the purchase of the poultry for both establishments? A. Yes, sir.

Q. Are you sure about that? A. Yes, sir.

Q. Who delivered the poultry to New York? A. There were three trucks, one of the trucks——

Q. What is that? A. One of Schechter's own trucks.

Q. Yes, how much did Schechter's own truck take? A. Had 38 long coops.

Q. 38 long coops? A. Yes.

Q. Did you furnish those long coops? A. No.

Q. Where did they get them? A. They came from New York.

Q. They came with the Schechter truck? A. Yes.

Q. To Philadelphia? A. Yes.

Q. That was contained on the Schechter truck? A. Yes.

Q. How did you know it wa a Schechter truck? A. Well, it was a Schechter driver, a 2996
fellow that I had known as one of Schechters' men.

Q. Did the truck have any name on it? A. Rugby Live Poultry, to the best of my knowledge.

Q. Rugby Live Poultry Market? A. Yes, sir.

Q. And you know that as the A. L. A. Schechter Live Poultry Market? A. It was known to me as such.

Q. How about the rest of the poultry, how was that delivered? A. To the best of my knowledge there were 59 coops went on a 2997
Chevrolet known to me as——

Q. Driven by who? A. Damskie.

Q. Damskie, the driver? A. Yes.

Q. Who is he, is he an employee of the Schechters? A. I could not say.

Q. Or is he an independent driver? A. I could not say as to that.

Q. But you say 59 baskets went on Damskie's truck? A. Yes.

Q. Which part of the poultry was that? A. That was——

Q. Let me see those invoices. A. (Witness hands papers to counsel.)

2998 *Amos M. Whitmore—By Govt.—Direct*

Q. Was that part of the 7144 pounds sold to A. L. A. Schechter Poultry Corporation? A. No, sir. That was part of the poultry sold to Joe Schechter.

Q That was part of the 7209 pounds? A. Yes, sir.

Q. You are sure about that? A. Sure about that.

Q. Who took the rest of the poultry? A. Gottenberg.

2999 Q. And how much did he take? A. 65 coops or baskets.

Q. We have 65 coops and 59 coops taken by Gottenberg and Damskie? A. Yes.

Q. Who is Gottenberg? A. He is a Philadelphia trucker.

Q. An independent trucker in Philadelphia? A. Yes, sir.

Mr. Heller: I move to strike out about Gottenberg.

Mr. Rice: No, your Honor, he was delivering them for the Schechters.

3000 The Court: That's right.

Q. He was hired to deliver part of this poultry to the Schechters in New York? A. Yes.

Q. Now we have Gottenberg taking 65 basket and Damskie 59 baskets? A. Yes.

Q. And was all of that 124 baskets purchased on that day? A. No, sir, there was 12 baskets of leghorn fowl and one basket of colored fowl carried over from Saturday.

Q. So that 111 baskets were purchased on that day, Monday, May 28th? A. Yes.

Q. And 13 additional baskets were purchased immediately prior, that is on Saturday, they

were included in the deliveries made by Gottenberg and Damskie? A. That is correct.

Q. Which one took the 13, Gottenberg or Damskie? A. Goftenberg.

Q. Damskie took 59 purchased on that day? A. That's right.

Q. Now you stated that the 38 coops were taken by the Rugby truck? A. That is right.

Q. Was there any official inspection of this poultry in Philadelphia? A. No, sir.

Q. Did you examine your records to ascertain whether you had made a charge for baskets of poultry delivered on Saturday, May 26th and Monday, May 28th? A. Yes. 3002

Q. And what do you find? A. I have found a charge of 162 coops.

Q. On what date? A. On May 26th.

Q. That is Saturday? A. Yes.

Q. That includes the 82 coops? A. Yes.

Q. Now how about Monday, May 28th? A. That was 111 baskets or coops.

Q. That is 111 baskets? A. Yes, sir, baskets.

Q. How about 113? A. That was on Saturday's charge. 3003

Q. Now about the 38 coops, did you ascertain that 38 large coops in which part of the poultry was delivered by the Rugby truck, did you ascertain whether or not Risser & Rabinowitz had made a charge for those 38 coops? A. No, sir, htey did not.

Q. Why not? A. They were not our coops.

Q. Those coops were brought over by the Schechters? A. Yes.

Q. Which Schechters do you deal with, which Schechters did you deal with at various times in May of 1934?

3004

Mr. Heller: I object to that. We are concerned with two transactions and we have had all the information on those transactions.

The Court: Yes, but if he knows about the others——

Mr. Rice: Very well, I will withdraw the question.

Q. You stated you dealt with Abe Schechter on these occasions. A. Yes.

3005 Q. Did you deal with any other Schechter brother at about that time?

Mr. Heller: I object to "about that time," let us confine ourselves to those occasions.

The Court: That's right, but he can identify him if he knows him. This is what you have alleged and this is what you prove. If you want to identify them, if he knows any of the other Schechters he can say whether he knows.

3006 Mr. Rice: This is in regard to Count 1, your Honor.

Q. Do you know any of the other Schechter brothers? A. I have seen two in the plant.

Q. Which other one besides Abe Schechter? A. The one knows to me as Joe.

Q. Which one is he, do you recognize him or don't you? A. Not exactly, no.

Q. Which one did you point at? A. This fellow on this end.

Q. The first one? A. Yes, sir.

Mr. Rice: That is Joseph Schechter, is it not, counsel?

The Court: Joseph Schechter.

Q. You have had dealings with him from time to time? A. Yes, we have had dealings with him.

Q. Does he purchase poultry for both the Schechter establishments?

Mr. Heller: He didn't say anything of the kind.

The Court: No, that is perfectly all right, they want to show his connection with the business. There is no use of going into general sales because you would 3008 not have any evidence that it wasn't inspected but if you want to show his connection with this business of course you can show that.

Mr. Rice: That is all I desire to show, your Honor.

The Court: You know Joe Schechter?

The Witness: Yes, sir.

The Court: Go ahead.

Q. What dealings have you had with him? A. Well, he has bought poultry for the two con- 3009 cerns.

Q. For both concerns? A. Yes, sir.

Q. And you have already stated that Alex has bought poultry for both concerns? A. Yes, sir.

Mr. Rice: That is all.

Cross examination by Mr. Heller:

Q. Did someone point out Mr. Joe Schechter to you in the hallway before? A. Point him out to me?

Q. Yes. A. No, sir.

3010 Q. Somebody introduced him to you in the hallway before you came in, didn't they? A. No, sir, no one introduced him.

Q. You are sure about that? A. Yes, sir.

Q. Nothing like that took place? A. I spoke to him in the hallway.

Q. Who introduced you to him? A. No one. When I spoke to him I said, "Is this Abe or Joe?" and he said "This is Joe."

Q. You asked him whether it was Abe or Joe? A. Yes, sir.

3011 Q. And he told you he was Joe? A. I know the two boys as the Schechter boys.

Q. Do you know the other two boys as the Schechter boys? A. I know they are Schechters.

Q. Did you have any personal dealings with each and every one of them? A. No, sir.

Q. You had no personal dealings except with the one you pointed out? A. Abe and Joe.

Q. You had personal dealings with Joe? A. For the business.

Q. What is that? A. For the business.

Q. When did you have personal dealings, and
3012 where? A. At Risser & Rabinowitz's plant.

Q. In Philadelphia? A. Yes, sir.

Q. When was that? A. I couldn't recall the date.

Q. A year ago? A. I couldn't say.

Q. Two years ago? A. I can't recall the date that he was there.

The Court: He is not asking you the specific date, can you recall any month of any year in which you did business with Joe, with Mr. Joseph Schechter?

The Witness: To the best of my knowledge it was along about the same time of the other transactions.

Q. Didn't you say the only one that came there in May was Abe? A. On those particular dates.

Q. And isn't it a fact that you only weigh the merchandise and Mr. Rubinowitz sells it? A. No, sir, I do not weigh it.

Q. You did not weigh it? A. I did this one particular draft, load.

Q. You did weigh it on this occasion? A. Yes.

Q. And on other occasions you did the selling? A. Yes, sir; I supervised the loading.

Q. Isn't it a fact that many merchants come to Philadelphia from New York to buy merchandise? 3014 A. Yes.

Q. There is nothing unusual about coming to your place to buy merchandise? A. No.

Q. Yes, and merchants come and bring their own baskets, is that right? A. That is right.

Q. Bring their own coops? A. Some do.

Q. Don't they? A. Some do.

Q. There is nothing mysterious about that, is there? A. No.

Q. You sell good wholesale poultry? A. Aim to.

Q. You don't deal in diseased chickens, do you? 3015 A. No, sir.

Q. You did not sell him any diseased chickens on these occasions, did you? A. No, sir.

Q. Sold him the best quality stuff, isn't that right? A. That is correct.

Q. You charged him the regular prices? A. That is right.

Q. You were paid for the merchandise? A. Yes, sir.

Q. Isn't that right? A. Yes, sir.

Q. You know as a matter of fact from your own knowledge that those chickens were healthy, don't you? A. Yes, sir.

3016 Q. And you are sure about that, that every chicken they got was a healthy chicken as far as you know? A. As far as I know.

Q. Is that correct? A. Yes.

Q. And you charged him for healthy chickens, isn't that correct? A. That is correct.

Q. Isn't it a well known fact that chickens that come from Philadelphia are always good and healthy chickens, isn't that a fact? A. I couldn't say.

Q. You couldn't say? A. As to what?

3017 Q. You do not know the statistics with reference to Philadelphia show that not one per cent. of culls come from Philadelphia to New York? Have you ever read any such statistics? A. No.

Q. You do not make a habit of dealing in diseased chickens there? A. No.

Q. And you try to sell the best and you sold the best on these occasions? A. Yes.

Q. No question about that? A. No.

Q. Charged him the regular prices as you would sell to other merchants, is that correct? A. That is correct.

3018 Q. No mystery about these purchases? A. No.

Q. Nothing unusual; it is done in the regular course of business, isn't it? A. Yes.

(Witness excused.)

Mr. Rice: Your Honor, at the time that Dr. Ives testified I had him identify five inspection certificates which he said were the only five inspection certificates for any inspections made on behalf of any Schechter establishment during the calendar year 1933 or during 1934 up to the time

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of the indictment. The first two of these certificates are in 1933 and do not concern us. I should like, however, to read the material on the three inspection certificates for 1934 to the jury.

Mr. Heller: I should very much object if counsel does that. I object to counsel coming to certain conclusions that are not founded on the facts. There is no testimony how many purchases came in from a different State. He has no right to say

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those are the only inspection slips. Maybe those are the only purchases.

Mr. Rice: We have just proved certain purchases now. We propose to show now that the inspection, the only inspection made according to the testimony of Dr. Ives on his records were inspections of only a portion of the poultry coming from Philadelphia.

Mr. Heller: I also remember that Dr. Ives said that if a different name were given to him he would not know whether

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the poultry was inspected or not, and they do that frequently. Those documents are not in evidence.

Mr. Rice: Yes, they are, certainly, Exhibit 15. They are in evidence, five certificates are in evidence as Exhibit 15, part of the record.

Mr. Heller: I do not know how they ever got in. Since they are in, the jury may look at them, but I do not think counsel ought to make any summation about them now.

The Court: The jury may look at them; they are in evidence.

3022

Mr. Rice: I simply wish to read those figures of the number of baskets.

The Court: Read what they say, that is all. Just read the instrument. What counsel objects to is a lengthy statement about it.

Mr. Rice: The first two inspection certificates are for the year 1933. The third one, contained in Exhibit 15 is dated May 28, 1934. The number of baskets is 65.

3023

The inspection made for Schechter Brothers, 291 Rockaway Avenue.

The fourth, gentlemen of the jury, is an inspection certificate of 105 baskets for Schechter Brothers of 291 Rockaway Avenue, dated May 30th, 1934.

The fifth, is an inspection certificate for Schechter Brothers of 858 East 52nd Street, 176 containers, dated May 30th, 1934.

The Court: Gentlemen of the jury, we will now take a recess until two o'clock P. M. Do not discuss this case among

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yourselves or allow anyone to discuss it with you and be back here at two o'clock sharp.

Recess until 2 P. M.

Jacob Damsky—By Govt.—Direct

3025

Brooklyn, N. Y., October 24, 1934.

Met pursuant to adjournment at 2 P. M., present as before.

JACOB DAMSKY, called as a witness on behalf of the Government, having been duly sworn, testified as follows:

Direct examination by Mr. Rice:

Q. What is your business? A. Well, the poultry business.

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Q. What other business? A. Well, the trucking business.

Q. Have you ever served the Schechter Brothers as a trucker? A. I did.

Q. On what date? A. On the 28th of May.

Q. 1934? A. 1934, yes, sir.

Q. What day of the week was that, do you remember? A. That was on a Monday.

Q. And who hired you? A. Joe Schechter.

Q. And what did he say to you? A. Well, he asked me did I want to bring a load of poultry for him from Philadelphia.

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Q. And did you do it? A. I said that I did want to bring a load of poultry and I went down and got it for him.

Q. Did he tell you where to bring the poultry? A. He did.

Q. Where? A. To his place at No. 858 East 52nd Street.

Q. This is Joe Schechter, you say? A. Yes.

Q. And where did you see him? A. At this place.

Q. You mean 991 Rockaway Avenue? A. No, 858 East 52nd Street.

Q. And he told you to bring the poultry where? A. To the East 52nd Street address.

Q. The same place? A. Yes.

Q. He did not tell you to bring it to 991 Rock away Avenue, did he? A. No.

Q. Did he say anything else? A. No.

Q. Did he say anything about stopping for inspection? A. He didn't tell me anything about inspection.

Q. What did you do? A. I went down there and I got the poultry and I brought it back.

3029 Q. You went to Philadelphia? A. Yes.

Q. Whereabouts? A. To the firm of Risser & Rabinowitz in Philadelphia.

Q. And what happened there? A. Well, I came over to the man there and I says, "I am here for Schechter's poultry," and he says, "All right, it is all weighed up, and you can take it."

Q. How many baskets? A. 59 baskets.

Q. You loaded it on the truck? A. Yes.

Q. How did you happen to remember that it was 59 baskets? A. Because he paid me for 59 baskets.

3030 Q. Was there anybody else there besides the man from Risser & Rabinowitz? A. No, only the workmen.

Q. Did you see any of the Schechters there? A. No.

Q. You were simply told that this was poultry for the Schechter Brothers? A. Yes.

Q. And what did you do? A. I loaded it on my truck.

Q. And who was with you? A. My brother, Morris Damsky.

Q. Then what did you do? A. Then I went back to New York with it.

Q. Where did you go? A. 858 East 52nd Street. 3031

Q. Did you stop any place on the way? A. No.

Q. Did you stop for inspection? A. No.

Q. You are sure about that? A. Positive.

Q. And you brought the poultry to the market at No. 858 East 52nd Street? A. Yes.

Q. And who did you find there? A. Meyer and Al.

Q. Did you talk with them? A. I did.

Q. And what about, what was said? A. I told them that I am here with the poultry and I wanted to get it unloaded, I want to go home. 3032

Q. And did they help you? A. They did.

Q. Who? A. Meyer and Al.

Q. Both of them? A. Yes.

Q. Can you identify them? A. Sure.

Q. Which one is Alex? A. Alex is sitting back there and Meyer is in front of him.

Q. Did they help you unload? A. That is right.

Q. Did you have any conversation with them? A. I had no conversation with them.

Q. Did you talk with them? A. (No audible answer.) 3033

Q. Did you get paid? A. Well, I got paid a couple of days later.

Q. Who paid you? A. I think Joe paid us.

Q. How much did he pay you? A. Well, it was, he paid us twenty-one dollars, something like that.

Q. You got so much per coop? A. Yes.

Q. So much per basket? A. That is right.

Q. You are sure that it was 59 baskets? A. That is right.

Mr. Rice: That is all.

3034 *Leo Schimmel—By Govt.—Direct*

Cross examination by Mr. Heller:

Q. What time of day did you load the poultry in Philadelphia? A. Loaded about four o'clock in the afternoon.

Q. What time did you get to Brooklyn? A. About nine o'clock at night.

Q. Nine o'clock at night? A. Yes, sir.

Q. Is that right? A. That is right.

Q. You have carried poultry before from Philadelphia to New York for other merchants,
3035 have you not? A. I probably did.

Q. From other States too? A. I did.

Q. Is that right? A. Yes.

Q. Have you ever had poultry inspected? A. Yes.

Q. Do you know if the Inspection Service is closed at night? A. Do I know it is closed at night?

Q. Yes. A. I suppose I do.

Mr. Heller: That is all.

Mr. Rice: That is all.

(Witness excused.)

3036 Mr. Rice: I will call Leo Schimmel. The testimony of this witness, if your Honor please, will relate to Counts 41 to 59 inclusive, the labor counts.

LEO SCHIMMEL, called as a witness on behalf of the Government, having been duly sworn, testified as follows:

Direct examination by Mr. Rice:

Q. What is your business, Mr. Schimmel? A. My job is bookkeeper.

Q. You are a bookkeeper? A. Yes, sir. 3037

Q. What work do you do? A. Everything that goes with bookkeeping, collecting——

Mr. Heller: I can't hear you.

A. (Continuing.) Everything that refers to bookkeeping.

Q. Look over this way to the jury. A. Collecting, depositing, charging, once in a while delivering an order.

Q. Who do you work for? A. A. L. A. Schechter Poultry Corporation. 3038

Q. How long have you worked there? A. A year and a half.

Q. Are you in any way related to any of the Schechter Brothers? A. One of their brothers is my brother-in-law.

Q. Will you tell us just what sort of work you do in addition to bookkeeping at the Schechter Market? A. As I said before, I do the books, and I go out collecting and depositing; once in a while I go out soliciting and delivering an order.

Q. You actually make deliveries? A. Once in a while when it is very busy. 3039

Q. Do you also help with the packing of the chickens at the time they are purchased? A. That is the bookkeeper's job, to help by the scale.

Q. What do you do? A. Just hold the bag while the man puts the chickens in the bag, and tie it up.

Q. So you do manual labor on the premises too?

Mr. Heller: I object to counsel's characterization as to what is manual labor.

3040 *Ireo Schimmel—By Govt.—Direct*

The Court: Yes; let him tell what he does.

Q. Tell us everything that you do. A. When the chickens are put on the scale I get the weight of the chickens, and one of the union men puts the chickens in the bag, and I hold the bag and tie it up and put a tag on the bag.

Q. You testified before the Grand Jury, did you not? A. Yes, sir.

3041 Q. Did you tell anybody that you testified before the Grand Jury? A. I told Schechter Brothers.

Q. Did they ask you? A. Yes, sir.

Q. Who asked you? A. Well, the one that gave me the subpoena.

Q. Which one? A. Alex Schechter.

Q. Who else? A. That is all.

Q. What did he say to you?

Mr. Heller: I object to that unless the time and place is stated.

3042 Q. When was this? A. That was the day that I was subpoenaed; he gave me the subpoena, and when I came back he asked me what they asked me.

Q. That was the same day that you testified? A. Yes, sir.

Q. He asked you what they asked you before the Grand Jury? A. Yes, sir.

Q. Did he ask you what you said before the Grand Jury? A. No, sir.

Q. What is that? A. He didn't ask what I said.

Q. Did you tell him what you said before the Grand Jury? A. No, sir.

Q. What is that? A. No, sir.

Q. You just told him what they asked you before the Grand Jury? A. That is right.

Q. What I asked you before the Grand Jury? A. That is right.

Q. And what the jurors asked? A. What the jurors asked?

Q. Yes. A. Yes, sir.

Q. But you didn't tell him what you said? A. No.

Q. Why did you draw the line at that? 3044

Mr. Heller: I object to that. He is his own witness.

The Court: It doesn't make any difference why he drew the line.

Q. Did you talk to Mr. Heller about this case? A. No.

Q. You are sure about that? A. Positive.

Q. Didn't Mr. Heller come to see you one day? A. Not in reference to this case; in reference to a case in regards to the business.

Q. He called you in, did he not, he called you 3045
into the office at the place? A. It was in reference to a case where I had an accident, where I was driving one of the boss' machines.

Q. But I am asking you did he discuss this case with you? A. No, sir.

Q. Did he mention it to you? A. No, sir.

Q. Did you mention it to him? A. No, sir.

Q. Did you discuss your testimony before the Grand Jury? A. Not with Mr. Heller.

Q. Did you discuss the questions that you were asked before the Grand Jury with Mr. Heller? A. No, sir.

Q. When you talked this over with Alex Schecter were any of the other Schechter Brothers present? A. If I remember correctly, I think Joe Schechter was present.

Q. What did he say? A. He had nothing to say; he just listened to what Alex Schechter asked.

Q. What did Alex Schechter say besides what you have told us? A. He just asked me what the Grand Jury asked me, but I didn't say anything to him in response.

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Q. You say you have worked for A. L. A. Schechter Poultry Corporation for a year and a half? A. That is right.

Q. All of the time doing the various duties that you have described, doing the things that you have described in your testimony? A. That is about all.

Q. During that year and a half? A. Yes, that is about all I did.

Q. Each week? A. Yes, sir.

Q. What are your wages? A. $20 a week.

3048

Q. $20 per week. How long have you been paid $20 per week? A. Oh, for the past six months.

Q. For the past six months? A. Yes, sir.

Q. What did you get before that? A. Eighteen dollars.

Q. Have you gotten anything more than $20 per week in the past six months? A. I get two chickens for Saturday——

Q. Speak up. A. I got two chickens for Saturdays and one chicken during the week, which amounts to an average of about three to four dollars worth.

Q. That is rather expensive, isn't it, for three chickens?

3049

Mr. Heller: I object to counsel's questioning along that line.

The Court: He said he got so much and he got two chickens and one.

Q. And those weeks when you did not take home chickens did you get extra pay? A. It only happened one time since I am working there that I didn't take home any chickens.

Q. Did you get extra pay when you did not take home the chickens? A. No, sir.

3050

Q. You told us what salary and wage you get; did you get anything in addition to that, or is that everything that you got? A. Well, at one time during the holidays I got a bonus of ten dollars.

Q. When was that? A. That was on April 23, 1933.

Q. That was April. Since April, 1933, have you got any other wages in addition to what you have told us? A. No, sir.

Q. Speak up. A. No, sir.

3051

Q. Commencing with the week ending on or about May 18, 1934—May 18th is a Friday, is it not? May 18th is a Friday, 1934; when does your week end? A. Saturday.

Q. Saturday? A. Yes.

Q. Then taking the week ended May 19—Saturday—in 1934, did you work in the Schechter premises at 858 East 52nd Street that week? A. Yes, sir.

Q. Did you work for Alex, Martin and Aaron Schechter? A. Yes, sir.

Q. And the A. L. A. Schechter Poultry Corporation? A. Yes, sir.

Q. Do you recall when Mr. Justice was at the A. L. A. Schechter Poultry Corporation, Mr.

3052 Justice, an accountant from the Agricultural Adjustment Administration? A. Yes.

Q. The white-haired gentleman, do you recall that he was there? A. I do.

Q. Do you recall talking to him on June 29, 1934, on a Friday? A. Yes, sir.

Q. Do you recall that? A. Yes.

Q. Oh, did I say May? I meant June 29th, 1934, that is a Friday, do you recall talking to him on that date? A. Yes, sir.

3053 Q. Do you recall making out a little slip for him? A. That is right.

Q. Showing him the number of hours that you had worked the previous week, which was the week ending June 23, 1934? A. Yes, sir.

Q. Do you recall that? A. Yes, sir.

Q. You told him the number of hours that you worked on the week ending June 23, 1934? A. For that particular week only.

Q. That is for the week before the week that he was there? He was there on June 29th, was he not? A. Yes.

3054 Q. On a Friday. You told him how many hours you had worked the previous week? A. He was there ever since May 17th.

Q. Yes, but you told him the number of hours that you had worked each day of the previous week, which is the week ending June 23, 1934? A. Yes, sir.

Q. Do you recall how many hours it was that you worked that week? A. (No answer.)

Q. Did you make out a slip for Mr. Justice, showing him the number of hours that you had worked each day of the previous week, being the week ending June 23, 1934? A. Well, that week I just——

Q. Just answer my question. A. Yes.

Q. Did you make out a slip showing the—— A. Yes, but that does not mean that I worked those hours; the place was simply opened during those hours.

Q. Just a minute. Let us see. I hand you this little slip, which is attached to a memorandum by Mr. Justice. Is that in your handwriting? A. Yes, sir.

Q. How many hours did you work that previous week, the week ending June 23, 1934, how many hours each day? A. That does not mean that I worked these hours. Mr. Justice simply asked me how long the place was open. 3056

Q. Look at that memorandum and see if you can refresh your memory. What does that memorandum say? A. The memorandum says 73 hours.

Q. 73 hours that week? A. (No answer.)

Q. What do the words say, that you wrote for Mr. Justice? A. The words say 73 hours.

Q. Read it, read the memorandum. A. Monday, 11— 3057

Q. No, read the memorandum, from the beginning.

The Court: Read it to himself.

The Witness: "I worked the following hours last week: Monday, 11; Tuesday, 11"——

Q. Just a moment.

The Court: Read it and refresh your recollection.

Mr. Rice: All right.

Q. How many hours did you work on June 18, Monday? A. I don't remember June 18th.

Q. That is the week ending June 23, Monday is June 18. How many hours did you work on Monday of the week ending June 23, 1934? A. What I wrote here was that the place was open during those hours. I did not say I actually worked those hours. I was simply in the place during those hours.

Q. Answer the question.

Mr. Heller: I submit he has answered it fully.

3059 The Court: I do not see how you can bind these defendants by what he said to somebody else. Ask him to look at it. He may use it to refresh his recollection, if it is true that he said something, but he is your witness and he cannot testify to conversations he had with someone in the absence of these defendants, because it does not bind them.

Mr. Rice: Quite right. I recognize that.

Q. How many hours did you work on each day
3060 of the week ending June 23, 1934? A. As far as this memorandum, it is: Monday, 11 hours——

The Court: Just look at the memorandum. He did not ask you to read the memorandum to the jury. Read that memorandum over and, after you have read it over, you listen to the questions you are asked and answer them.

Q. Look over the memo. How many hours did you work on Monday of that week? A. Monday, 11 hours.

Q. Tuesday? A. Tuesday, 11 hours.

Q. Wednesday? A. Wednesday, 12 hours.

Q. Thursday? A. Thursday, 17 hours.

Q. Friday? A. Friday, 13 hours.

Q. Saturday? A. Saturday, 9 hours.

Q. A total of 73 hours that week? A. Yes, but I did not actually work those hours. Those were the hours that the place was open.

Q. How many hours did you work that week? A. Well, you see, I haven't got a specified time schedule of the amount of hours I am supposed to work. I cannot tell you exactly how many hours I worked.

3062

Q. All right. Now, taking that week or, rather, taking the week ending May 19, 1934, what time did you come to work on Monday? A. Seven o'clock in the morning.

Q. Always at seven o'clock? A. On Monday?

Q. Yes. A. Yes, unless it is a holiday or so.

Q. Taking the entire period from the week ending May 19, 1934, up to the week ending July 20th, 1934, on Mondays, what time did you come to work? A. Seven o'clock.

Q. Always? A. Yes, sir.

Q. By seven o'clock? A. Yes, sir.

3063

Q. Never later? A. No.

Q. What time did you leave? A. Well, as soon as killing was over, I left for collections and I was away for the balance of the day.

Q. No, no. What time did you finish your work on Mondays? A. Well, as long as the place was open; I was around the place.

Q. What time? A. About six o'clock, five o'clock, six o'clock; I haven't got a specific time.

Q. And what did you do when the place closed? A. I went home.

Q. Didn't you go out collecting? A. No.

Q. Didn't you quit work Mondays at seven o'clock?

3064

Mr. Heller: I object to counsel suggesting the answer to the witness.

The Court: He has answered that, Mr. Rice, he is your witness.

Q. What time did you generally leave? A. On Monday?

Q. Yes. A. 5:30, sometimes before.

Q. What is the earliest that you would leave? A. The earliest 4 o'clock.

Q. Did you leave at 4 o'clock? A. During that
3065 period of time a few times.

Q. When? A. I cannot remember these things.

Q. Do you remember any occasion when you left before 5:30?

Mr. Heller: He said at times at 4 o'clock, which is earlier than 5:30.

The Court: He is asking him now on Mondays, if he ever left before 5:30.

Q. Did you ever leave before 5:30 on Mondays during this period of time in May, June and July of 1934? A. Yes, sir.

3066 Q. What is the earliest you left? A. 4 o'clock.

Q. How many times did you leave at 4 o'clock? A. Four or 5 occasions.

Q. Did you come back again? A. No.

Q. Do you recall what you testified to before the grand jury.

Mr. Heller: I object, your Honor, to this kind of testimony, it is his witness and he is bound by what he says.

The Court: I understand, but he has a right to call his attention to something that may refresh his recollection.

Q. Do you recall what you testified to before the grand jury? A. I don't remember exactly, but if you can refresh my memory——

Q. Would your memory be refreshed if I directed your attention to what you testified before the grand jury? A. Yes, sir.

Q. Well, while we are getting the grand jury minutes we will go to Tuesdays. Now Tuesdays, during this period of time, in May, June and July of 1934, throughout those months in 1934, what time did you come to work? A. On Tues- 3068
days the same as Mondays, exactly the same hours.

Q. Never after seven o'clock? A. No.

Q. And on Wednesdays? A. About an hour later.

Q. What is that? A. About an hour later than Mondays and Tuesdays.

Q. And what time did you get there on Wednesdays? A. Seven o'clock.

Q. And six o'clock on Mondays and Tuesdays? A. In between that time I went to lunch two or three times during the day.

Q. On Mondays during this whole period of 3069
time you came to work at six o'clock? A. Seven o'clock.

Q. On Tuesdays what time? A. Seven.

Q. On Wednesdays was it at seven? A. Seven.

Q. Always by seven o'clock on Wednesdays, is that correct? A. Yes, sir.

Q. Speak up. A. When I come to work you are referring to?

Q. Yes. A. Yes, seven in the morning.

Q. Now how about Thursdays during this same period of time? A. Thursdays from five o'clock in the morning.

3070 Q. Always by five? A. Yes.

Q. And on Fridays? A. Six.

Q. Always by six o'clock? A. Yes.

Q. On Saturdays? A. Saturdays?

Q. Saturdays, yes. A. Saturday in the afternoons only.

Q. About what time? A. About two o'clock.

Q. By two o'clock, always, excepting for two occasions? A. Two or three occasions.

Q. Excepting for two or three occasions by two o'clock? A. Yes.

3071 Q. Are you sure about that? A. Yes, sir.

Q. And during this whole period of time, May, June and July of 1934, is that correct? A. Yes, sir.

Q. Now on Monday, how much time did you take off for lunch? A. On Mondays I took from two to three hours.

Q. Didn't you take off only 45 minutes for each lunch?

Mr. Heller: I object to that, your Honor.

The Court: He is your witness, Mr.

3072 Rice.

Q. Now think carefully, Mr. Schimmel, and how much time did you take off for lunch on Mondays? A. About two hours.

Q. Sometimes only an hour and a half, sometimes less than two hours? A. Very seldom.

Q. And that includes two lunch periods, does it, on Mondays? A. Two lunch periods.

Q. A total of two hours? A. Yes.

Q. What time did you quit work during that period on Mondays?

Mr. Heller: Objected to as already testified. He said four o'clock in the after-

noon, that is what his testimony was, on several occasions.

The Court: He said before generally between 5:30 and 6 and sometimes 4. We have had that I think now three or four times.

Q. Now on Tuesdays how much time did you take off for the lunch? A. Sometimes—the same as Mondays.

Q. About two hours? A. About two hours.

Q. Now what time did you quit work? A. 3074
Four o'clock.

Q. What is that? A. Four o'clock.

Q. Four o'clock, is that the time you quit work? A. On Tuesdays, which is the same as Mondays, as I told you before.

The Court: What time was it that you quit work on Thursdays you said?

The Witness: Five o'clock.

Q. Now you said your memory would be refreshed by referring to your grand jury testimony? A. Yes, sir. 3075

Q. Now will you look at the bottom of the page, the last three questions on this page of the grand jury minutes and read the questions and answers to yourself. A. Yes, sir.

Q. Now will you tell us what time you quit work on Mondays during that period of time, May, June and July of 1934? A. When I testified I said about six o'clock.

Q. About six or seven? A. I didn't say exactly, it might have been an hour less or an hour more, I told you before my time is not limited, it is not specified, I can work an hour more

3076 or an hour less or even two hours less and it makes no difference.

Q. Do you recall having testified before the grand jury that you never had quit on Mondays, Tuesdays or Wednesdays before six o'clock since May 16, 1934, do you remember having given that testimony? A. I said——

Q. Will you read this question again, please, the last two lines on this page? A. Yes.

Q. Have you read it? A. Yes, sir.

3077 Q. What time did you quit work on Mondays, Tuesdays and Wednesdays during May, June and July, 1934? A. When I testified at that time I understood that you asked me what time the place was closed, but you didn't ask me what time I quit work. That is how I understood the question to be.

Q. Read it again. A. I have read it three times.

Mr. Heller: He has refreshed his recollection.

3078 Q. You did read it, did you? A. I read it three times.

Q. You say on Tuesdays you quit work at what time during that period of time? A. Sometimes at four.

Q. Never before four? A. Never before four.

Q. What time did you usually quit? A. About five, five-thirty at the most.

Q. Generally five or five-thirty? A. Five-thirty.

Q. What did you do after that? A. I went home.

Q. Did you go out collecting? A. No, sir.

Q. Are you sure about that? A. Not on Tuesdays.

Q. Well, how about Wednesdays, what time did you quit work on Wednesdays? A. About six o'clock.

Q. Never before six? A. Never before.

Q. Sometimes as late as seven? A. I do not think it was as late as seven; 6:30 at the most.

Q. And you took about two hours off for lunch? A. Yes, sir.

Q. You did that every day? A. Yes, sir.

Q. During that whole period of time? A. No, on Wednesdays I took more than two hours. 3080

The Court: He answered, Mr. Rice.

The Witness: On Wednesdays I took more than two hours off for lunch.

Q. How much time did you take off? A. On Wednesdays I took three hours for lunch, two and a half or three.

Q. Never more than three? A. Never more than three.

Q. Sometimes two? A. Sometimes two, mostly three.

Q. On Thursdays you said you came to work at five o'clock in the morning? A. Yes, sir. 3081

Q. What time did you quit work? A. At five.

Q. Never before five? A. No, sir.

Q. On Thursdays? A. No, sir.

Q. During that whole period of time? A. No.

Q. How much time did you have off for lunch on Thursdays? A On Thursdays I only went to lunch once.

Q. What is that? A. Only once I went to lunch on Thursdays.

Q. You went to lunch only once during that twelve-hour period? A. Yes, sir.

3082 Q. How much time did you take off? A. A little over an hour.

Q. About how long? A. An hour or an hour and a half.

Q. Never more than an hour and a half? A. No, sir.

Q. What did you usually take off, how much time did you usually take off on Thursdays? A. One hour.

Q. One hour. It was very rare you took off an hour and a half, wasn't it? A. Yes.

3083 Q. Thursday was a very busy day? A. Yes, sir.

Q. Did you ever take off more than an hour during that period of time on Thursdays? A. On four or five occasions.

Q. You are sure about that? A. Yes, sir.

Q. After five o'clock on Thursdays you did some more work, did you not, collecting? A. It was my privilege to go out collecting if I wished to; if I wanted to I went; if I didn't, I didn't have to.

3084 Q. During that period from the week ending May 19, 1934, to the week ending July 26, 1934, how much time did you spend collecting after five o'clock in the evenings on Thursdays? A. Well, about an hour; if I would go out it was only for about an hour or two after five o'clock, but very rarely did I go out after five o'clock. If I did it was only for about an hour or two, but I never returned to the place after that time.

Q. Do you remember testifying before the Grand Jury about the time that you worked Thursdays, do you remember? A. I do not.

Q. Do you remember how many hours you said you worked on Thursdays? A. I was referring to the collection then too as well.

Q. Now, adding up the collection time, how much was it, fifteen and a half hours?

Mr. Heller: He didn't say that; he said between five and seven is when he collected occasionally.

Mr. Rice: Well, let us see——

The Court: I guess that is what he said. 3086

Q. How much time did you work on Thursdays during this period of time?

The Court: He is your witness; you have a right to refresh his recollection, but you can't impeach him.

Mr. Rice: I recognize that, your Honor.

Q. How much time did you work on Thursdays during this period of time, including the time that you spent collecting? A. You mean how many hours I worked all day? 3087

Q. Yes, altogether.

Mr. Heller: May we have the day and the week that counsel is referring to?

Mr. Rice: I said during this whole period of time.

Mr. Heller: That is too broad. We would like to know the specific week that he is referring to.

The Court: He is trying to find out whether he did work on those days, and how long he worked.

The Witness: Well, about twelve hours a day.

3088 Q. How many hours per day? A. About twelve hours a day.

Q. Twelve hours per day? A. Figure it out.

Q. Will you read your Grand Jury testimony and see whether that refreshes your recollection, at the top of page 310 read the first two questions and answers. Does that refresh your recollection? A. That was not subtracting the hours I took for lunch that day.

Q. Well, you took about an hour off for lunch, didn't you? A. Yes, sir.

3089 Q. On Thursdays? A. Yes, sir.

Q. You subtract an hour from fifteen and a half hours, is that right? A. Yes, sir.

Q. How many hours did you work on Thursdays then? A. Fourteen, according to that figure.

Q. What is that? A. Fourteen and a half.

Q. Fourteen and a half during all that period of time, is that right? A. Yes, sir.

Q. Now, on Fridays what time did you stop work? A. Six o'clock.

3090 Q. During all that period of time, is that right? A. Yes, sir.

Q. How much time did you have off for lunch? A. Two and a half hours.

Q. I can't hear you. A. Two and a half to three hours.

The Court: What time did you go to work on Friday?

The Witness: Six o'clock.

Q. Did you ever take off more than two hours on Fridays?

Mr. Heller: He said two and a half to three; that is what he said.

Q. Did you? A. Surely.

Q. You never took more than three? A. No.

Q. You are sure of that? A. Positive.

Q. Do you remember any time when you took off three hours on Friday during that period of time for lunch, do you remember any time? A. I do not remember exactly the time, but it happened about three or four occasions.

Q. What was the normal time you took off on Fridays? A. Never less than two hours.

Q. Usually about two hours? A. About two and a half hours. 3092

Q. Usually two or two and a half? A. Two and a half; never less than two.

Q. Now, on Saturdays you said you came to work at two o'clock; what time did you finish work on Saturdays? A. Well, after I got through, really, I quit as early as I got through.

Q. What time did you finish during that period of time? A. About eight o'clock.

Q. Sometimes later? A. Sometimes nine.

Q. And sometimes nine-thirty? A. No, sir.

Q. You never finished before eight, did you, during that period of time? 3093 A. As far as I remember, I do not think so; perhaps I did.

Q. You do not remember any time finishing before eight during that period of time, do you? A. That is right.

Q. Sometimes you worked until nine? A. Sometimes until nine.

Q. Did you usually work until nine? A. Usually until eight.

The Court: Any time off to eat?

Q. On Saturday afternoon did you have any time off for lunch? A. Yes, sir.

3094 Q. How much? A. Two hours.

Q. When was that? A. That was about from four to six.

Q. Are you sure of that? A. Yes, sir.

Q. Never more than two hours? A. Never more than two.

Q. During that whole period of time? A. Yes, sir.

Q. Isn't it true, Mr. Schimmel, that you ordinarily worked about sixty-five hours a week?

3095 Mr. Heller: I object to the question put by counsel. He did not say anything of the kind.

The Court: I do not know. Let him figure it up. I did not figure it. Let him figure it.

Mr. Rice: We had figured it on the basis of the calculations——

The Court: Let him figure it now.

Mr. Rice: Very well.

The Court: And tell us.

3096 A. Well, figure it out.

Q. I cannot hear you. A. Figure it out. I did not figure it.

Q. About how much time do you think it was?

The Court: Figure it yourself.

Mr. Rice: If your Honor please, I won't waste time on that. We have computed it.

The Court: It is a matter of argument anyhow. You have his testimony.

Mr. Rice: I beg your pardon?

The Court: It is a matter of argument anyhow. You have his testimony.

Mr. Rice: Yes, quite right.

Q. You have told us what happened throughout this period of time? A. Yes, sir.

Q. And throughout May, June and July, were you paid twenty dollars a week? A. Well, yes, sir, plus three or four dollars worth of poultry.

Q. Plus two or three chickens per week, is that correct? A. Yes, sir.

Q. And that is all you were paid? A. That is all.

Mr. Rice: That is all.

3098

Cross examination by Mr. Heller:

Q. Now, Mr. Schimmel, when did your family go away to the country? A. (No answer.)

Q. When did your family go away to the country? A. End of May.

Q. Can you fix about the approximate time? A. About May 25th.

Q. Did you work on Saturdays from May 25th until your people came back from the country? A. (No answer.)

Q. Did you work every Saturday? A. Well, except those Saturdays that I left for the 3099
mountains.

Mr. Rice: I cannot hear you.

A. (Continuing.) Except I did not work every Saturday; the times I went to the mountains I did not work.

Q. There were quite a number of Saturdays from May until your folks came back? A. They came back in September.

Q. And you went to visit them about how many times? A. About once every other week.

The Court: We are not concerned with after July 20th.

3100 Mr. Heller: No, up to July.
The Court: July 20th, wasn't that it?
Mr. Rice: Yes, that is the last date.

Q. So that from May to July every other Saturday you did not work at all, is that correct? A. That is true.

Q. Did you leave early in the afternoon when you went to the country, early on Fridays? A. I left about three o'clock on Fridays and got back Monday morning.

3101 Q. So every other week you did not work on Saturday and you got off at three o'clock Friday? A. Yes.

Q. Every other week, is that correct? A. Yes.

Q. No question about that? A. If I remember exactly, during that time it was about three or four times that I left.

Q. At three o'clock in the afternoon? A. And came back Monday morning.

Q. At about what time? A. About nine o'clock.

Q. Those mornings you came back at nine
3102 o'clock? A. That is right.

Q. On many occasions you went out for breakfast? A. Yes, sir.

Q. Took off about a half an hour or an hour? A. About an hour.

Q. Frequently? A. Well, every day.

Q. Every day you took off some time for breakfast, didn't you? A. Yes.

Q. Did you attend to any of your personal errands during the day, if you so desired? A. The boss did not stop me. If I pleased, I did. Nobody asked me whether I did or not.

Q. Nobody asked you what you were doing? A. No.

Q. What you were supposed to do? A. No.

Q. Time was your own? A. Yes.

Q. Anybody tell you you had to work fifty hours? A. Nobody ever told me that.

Q. Did anybody tell you you had to work sixty hours? A. There was no time limit.

Q. Time was your own, is that right? A. Yes.

Q. You could do as you pleased? A. Yes.

Q. Isn't that correct? A. Yes.

Q. You could go any time you wanted? A. That is true. 3103

Q. Place was as free to you as to the Schechters themselves? A. Yes, sir. 3104

Q. Is that correct? A. That is true.

Q. And isn't it a fact that you seldom worked more than forty-two to forty-eight hours, taking into consideration the time off for Saturdays, your breakfasts and lunches and the time spent for yourself? A. I do not understand that question.

Q. I say, didn't you average about forty-two to forty-eight hours, taking off the luncheon periods, the breakfast periods and the Saturdays? A. Saturdays and Sundays? 3105

Q. Saturdays and Sundays. A. The week-ends, you mean?

Q. Yes. A. Sure.

Q. Taking into consideration that sometimes you left at three o'clock Friday? A. About forty-three, forty-four, forty-five.

Q. That was your average you worked? A. Yes.

Q. You could have worked thirty, nobody would have stopped you, if you so desired? A. Nobody stopped me so long as I did my work.

Q. You went out on collections at times in the car for Schechters? A. I used their pleasure cars.

Q. Went around as you pleased? A. Yes, sir.

Mr. Heller: That is all.

Redirect examination by Mr. Rice:

Q. Let us find out about these week-ends that you went up to the country, in the mountains? A. Yes.

3107 Q. You talked to Mr. Justice on June 29th, which is a Friday, did you not? A. Yes, sir.

Q. 1934? A. Yes.

Q. When was the first time that you went to the mountains in 1934, in the Spring or Summer or Fall of 1934? A. About June 15th.

Q. June 15th, what time did you leave? A. Left three o'clock on Fridays.

Q. Three o'clock on Fridays. Now, how about the following week-end, which is the week—which is Friday, June 22nd, you did not go to the country that week, did you? A. That week I did

3108 not.

Q. You did not go? A. No.

Q. How about the week that Mr. Justice was there, June 29th? A. That week I did go.

Q. That week you did go? A. Yes, sir.

Q. At what time? A. At about two or three o'clock on Friday.

Q. About what—how about the week after Mr. Justice was there? A. The week after I did not go on Friday, but I went on Saturday.

Q. What time? A. Saturday, about six o'clock.

Q. You are giving the time that you left? A. The time that I left.

Q. On each occasion? A. Yes.

Q. The time you quit work on each occasion, is that right? A. Yes, sir. 3109

Q. That is Friday, July 5th, is that correct? A. 6th.

Q. What is that? A. Saturday, July 6th.

Q. Oh, yes, Saturday, July 6th. How about the week after that, Saturday, July 14th? A. I left on Friday.

Q. Wait a minute. Did you leave on Friday? A. I know I left on the Friday following the Saturday the previous week. I left on Saturday, and then the following week I left on Friday. 3110 I do not know the exact date. I am sure that is what it was.

Q. On Friday, July 5th? A. Yes.

Q. The week after Mr. Justice was there did you go to the country at all? A. On the Saturday, yes.

Q. What time did you leave? A. About six o'clock at Saturday.

Q. The following week, Friday, July 13th, you did not go, did you? You left on Saturday? A. No, I only left on Saturday on one occasion.

Q. On Friday, July 13th, did you go to the 3111 country? A. Yes, I left on Friday.

Q. What time? A. About three o'clock.

Q. That is the time you quit work? A. Yes.

Q. How about Saturday—the Friday after that you did not go to the country at all? A. July 20th?

Q. July 20th? A. I did.

Q. What time did you go? A. About half past two Friday.

Q. You are sure about that? A. Yes.

Q. Excepting for these occasions did you work as you stated in your direct examination? A. (No answer.)

3112 Q. Excepting for these occasions which you have now stated, that you went to the country? A. Yes.

Q. You worked all of the hours that you stated on your direct examination? A. That is right.

Q. Is that correct? A. That is correct.

Q. No question about that at all? A. No.

Q. How did you happen to make out this little memorandum for Mr. Justice? A. Well, that happened to be the week that I did not go to the country. That is the week that I worked on

3113 Friday and I worked on Saturday.

Q. Did you make this little slip out for Mr. Justice voluntarily? A. (No answer.)

Q. Did he ask you to make it out? A. He asked me to make it out.

Q. Did you complain to him first?

The Court: Wait a minute. They cannot be bound by that.

Mr. Rice: I will withdraw it.

Q. Did you talk to Mr. Heller about these week-

3114 ends that you went to the country?

Mr. Heller: He has already testified he has not spoken to me about this case numerous times.

The Court: I will let him answer.

Q. Did you talk to Mr. Heller about these week-ends that you went to the country? A. No, sir.

Q. Did you talk to the Schechter Brothers about it? A. They are the ones that sent me to the country.

Q. Did you talk to them about it in reference to testimony in this case? A. Perhaps I did.

Q. Did you, yes or no? A. Yes, sir.

Mr. Rice: That's all.

Recross examination by Mr. Heller:

Q. Now, did Mr. Rice ask you before the grand jury if you ever went to the country? A. No.

Q. Did he ask you whether you ever took any time off for lunch? A. He simply asked me how much time I took off when I went to lunch.

Q. He asked you nothing about going to the country? A. No.

Q. Now, you do bookkeeping work, don't you? A. Yes.

Q. You are not a laborer, are you? A. No. 3116

Q. You don't belong to the union, do you? A. No.

Q. Now on how many occasions, when you stayed there in the evening, did you stay there and watch the customers play cards? A. I did that occasionally.

Q. You stayed in there on your own time? A. Yes.

Q. And you sometimes waited for customers to take you home in their cars, didn't you? A. That's right.

Mr. Heller: That is all. 3117

Redirect examination by Mr. Rice:

Q. When I questioned you before the grand jury I asked you how much time you took off for lunch.

The Court: But we are not trying the case before the grand jury.

Mr Rice: But Mr. Heller opened it and I wanted simply to——

The Court: But you did not object to it.

Mr. Rice: Very well: That's all.

(Witness excused.)

3118 *Garland Galloway—By Govt.—Direct*

GARLAND GALLOWAY, called as a witness on behalf of the Government, having been duly sworn, testified as follows:

Direct examination by Mr. Rice:

Q. What is your occupation, Mr. Galloway? A. I am assistant to the Code Supervisor for the Live Poultry Industry and secretary to the Advisory Committee.

Q. And how long have you had that position?

3119 A. Since the day the Code started.

Q. And what did you do prior to that time? A. I operated a credit bureau and I managed the New York Poultry Exchange.

Q. Are you an accountant? A. Yes, sir.

Q. And what are your functions as an assistant supervisor of the Live Poultry Code Authority? A. I am in charge of the office, of the files, and all the managing of the office.

Q. Do you have anything to do with the reports which are required from slaughter house markets as to their volume of sales? A. I do.

3120 Q. And what are your functions in that connection? A. When the reports are received at the office it is my duty to check them off with the assessment—if a check is attached, and to run over the figures to see if they are added up correctly and the proper record taken and then to see that they are put into the files.

Q. What do the reports on the volume of sales have to do with the assessments? A. The assessments are computed on the basis of pounds.

Q. The number of pounds reported by the slaughter house markets? A. That is true.

Q. And if a slaughter house market reports less than his actual volume what about his assess-

ment? A. Well, he would compute his assessment from that list and it would be short.

Q. He would be paying less in assessments to the Code Authority, is that right? A. Yes.

Q. Now I show you Government's Exhibit 29 and I ask you whether that is one of the reports which were made to the Code Authority as to the range of daily prices of volumes in sales? A. It is.

Q. And those reports are from whom? A. The Schechter Live Poultry Market, Inc., 991 Rockaway Avenue. 3122

Q. What did you have to do with those reports if anything? A. When these reports were received in the office I had to check them over to find out whether they were made out correctly and see if the checks were attached to them and see that the figures on the pounds were put on and in the proper records, so that we would have some definite record rather than a number of these.

Q. And did you receive all the reports of this character? A. Yes.

Q. On behalf of the Code Authority? A. Yes. 3123

Q. And you know of all the reports that have been filed? A. Yes, sir.

Q. And they all came to you? A. Yes, sir.

Q. Now there are five reports there from Joe Schechter's market at 991 Rockaway Avenue? A. Five reports.

Q. Covering what period of time? A. The week ending May 25th, the week ending June 1st, the week ending June 8th, June 15th and June 22nd.

Q. And have there been any other reports filed by Joseph Schechter or the Schechter Live Poultry Market, Inc.? A. No, sir.

3124 Q. Or on their behalf? A. No.

Q. During the entire period of time that the Code has been in effect, there have been no other reports? A. No, sir.

Q. You are sure about that? A. Positive.

Q. No reports submitted or received? A. No.

The Court: Now this is exhibit what?

Mr. Rice: 29.

3125 Q. I show you, Mr. Galloway, this Exhibit 30, and I ask you whether they are the reports received by the Code Authority from the A. L. A. Schechter Corporation? A. They are.

Q. Covering what periods of time? A. The week ending April 30th, May 7th, May 14th, May 21st and May 28th.

Q. Any others? A. Yes, June 4th and June 11th.

Q. Do you know whether any other reports have been received from the A. L. A. Schechter Corporation? A. There have been no other reports.

3126 Q. You are sure of that? A. Yes, sir.

Q. Have there been any reports filed by Alex Schechter or Martin Schechter or Aaron Schechter? A. No.

Q. Besides these? A. No.

Q. During the entire period of time that the Code has been in effect? A. That's right.

Q. From May 16, 1934, to date, is that correct? A. That's correct.

The Court: That was with reference to Exhibit 31?

Mr. Rice: This is Exhibit 30.

Q. You have worked for the poultry industry as an accountant for a number of years? A. I have.

Q. You know the relative size of the various poultry markets? A. Yes, sir.

Q. How does the Schechter establishment at 858 East 52nd Street compare with other markets in Brooklyn?

Mr. Heller: I object to that, it has no competent bearing on the issues involved.

The Court: Oh, yes it has, objection overruled. 3128

Mr. Heller: Exception.

A. It is one of the largest.

Q. And how about the Schechter establishment at 991 Rockaway Avenue? A. That is true of that one too.

Q. That is among the largest in Brooklyn? A. Yes, sir.

Q. During the period of time from May 16th to date, those two have been among the largest in Brooklyn? A. Yes, sir.

Q. Do you know whether Joseph Schechter's establishment is now open at 991 Rockaway Avenue? A. The one at 991 Rockaway Avenue it is my understanding is not open; the one on 52nd Street is open. 3129

Q. Do you know of any large poultry markets that have not filed these reports?

Mr. Heller: That is objected to.

The Court: Sustained.

Q. Have you checked up on the accuracy of the reports on volume contained in Government's Exhibit 30?

3130 *Garland Galloway By Govt. Direct*

Mr. Heller: I object to the form of the question, let him state what he did and what he found.

The Court: He can state that he figured that up, he can state that.

Mr. Heller: Whether he checked the accuracy of these reports

Mr. Rice: I will withdraw that question.

Q. The reports contained in Government's Exhibit 30 show or purport to show the volume of
3131 sales by the A. L. A. Schechter Poultry Corporation for each week, being the week ending on the date indicated on the report, is that correct? A. Correct.

Q. Do you know whether or not the figures reported in Government's Exhibit 30 are correct?

Mr. Heller: I object to that as calling for a conclusion.

The Court: Unless he has examined the books.

Mr. Heller: Certainly.

3132 The Court: He might have a suspicion, he might have information, but unless he checked them with the books he cannot testify, and then he would only know what the books showed.

Q. Have you investigated the volume of sales by the A. L. A. Schechter Corporation during the period of time covered by the reports in Government's Exhibit 30? A. I personally haven't done it, but we have had investigators do it employed by the Government.

Mr. Heller: I object to what somebody else did.

Mr. Rice: We are just about to put the investigator on the stand. That is all.

Cross examination by Mr. Heller:

Q. Do you know when 991 Rockaway Avenue closed up? A. I do not know the exact date; I took my stencil out of the file on September 26.

Q. 991 Rockaway Avenue closed up September 1? A. I don't know when they closed up.

Q. You don't know that? A. I can't tell.

Q. You cannot tell? A. We didn't receive any 3134
reports from them, so I couldn't tell.

Q. You can't tell? A. No.

Q. Did you ever look at their books yourself? A. No.

Q. What do you base your opinion on that they are the largest concern in Brooklyn, or one of the largest? A. Because of the fact that we received reports from them.

Q. And that is what you based your statement on? A. Not only that, the fact that I am very well acquainted with everybody in the poultry business and with the commission merchants.

Q. You mean you asked them? A. I have 3135
asked them.

Q. And they told you that information? A. Yes, sir.

Q. And that is your knowledge of that statement? A. Not only that, but the fact that I have seen these reports and have compared them with other markets in that section.

Q. For that period of time? A. For that period of time.

Q. And you do not know whether they were the largest for any other period of time? A. I don't know.

3136

Mr. Heller: All right.

The Foreman of the Jury: Your Honor, may we have a recess?

The Court: Yes, you can have a recess for about five minutes. Do not let anybody talk to you about the case.

(Short recess.)

CLYDE N. JUSTICE, called as a witness on
3137 behalf of the Government, having been duly sworn, testified as follows:

Direct examination by Mr. Rice:

Q. Mr. Justice, what is your business? A. Accountant.

Q. And who do you work for? A. The Agricultural Adjustment Administration.

Q. How long have you worked for the Agricultural Adjustment Administration? A. A little over a year.

Q. In what capacity? A. As an accountant
3138 and auditor.

Q. And you are an experienced accountant? A. Yes, sir.

Q. Did you visit the A. L. A. Schechter Poultry Corporation at 858 East 52nd Street? A. I did.

Q. When was the first time you went there? A. June 19th.

Q. What days did you spend there? A. June 19, 20, 21, 22, 27, 28 and July 2; the 29th also of June.

Q. Is that all? A. Yes.

3139

Mr. Rice: If your Honor please, this will relate to Count 38 regarding falsity of reports.

The Court: Yes.

Q. Did you make an examination of the Schechter records? A. I did.

Q. What records did you examine? A. We examined the sales and purchase records, cash book and expense records.

Q. Did you examine the purchase records for the week commencing May 26, 1934? A. Ending June 2nd——

3140

Q. Ending June 2, 1934? A. Yes, that is right.

Q. Did you ascertain the amount of poultry that had been purchased that week from Risser & Rabinowitz? A. Yes, sir.

Q. According to the purchase books? A. According to their books, yes.

Q. You made a transcript of a portion of the books? A. I made a transcript of all of the books for the period between April 27th and June 23rd.

3141

Q. You made an exact transcript of that particular portion of the purchase records? A. Yes, sir.

Q. Will you tell us how many pounds of poultry was purchased by A. L. A. Schechter Poultry Corporation during the week commencing May 26 and ending June 2, 1934, from Risser & Rabinowitz, Philadelphia? A. 37,418 pounds.

Mr. Rice: That portion of the testimony relates to Count 5.

The Court: Yes.

Q. How much poultry was purchased altogether that week by the A. L. A. Schechter

3142 *Clyde N. Justice—By Govt.—Direct*

Poultry Corporation? A. Excluding a credit on the Rabitzer purchase of 6500 odd pounds, their purchases for the week were 44,805 pounds.

Q. Of which 37,418 pounds was purchased of Risser & Rabinowitz? A. Yes, sir.

Q. When were the purchases made from Risser & Rabinowitz? A. The record does not show the date of the purchase.

Q. Doesn't show the exact date? A. No.

Q. What does it show? A. It shows purchases were made during the week ending June

3143 2nd.

Q. Does it show the amount of each purchase? A. No, it shows the lump sum, lump purchase.

Q. And that is 37,000 —— A. 418 pounds.

Q. You have added up the total amounts of the purchases on the Risser & Rabinowitz invoices, which are Government's Exhibits 32, 33, 34 and 35, have you not? A. I have never seen the invoices, no, sir.

Q. Oh, you have not seen those invoices? A. No.

Q. Didn't you add up these figures? A. No.

3144

Mr. Rice: I wish to state for the Court that they were added up this morning and I stated for the record this morning that the aggregate amount was the identical figure just stated by Mr. Justice, namely, 37,418 pounds.

Q. Did you examine the sales records for the week commencing Monday, May 28, 1934? A. Yes, sir.

Q. What was the total volume of the sales made by the A. L. A. Schechter Poultry Corporation that week? A. That is the week ending June 2nd?

3145

Q. That being the week ending—June 2nd is a Friday. A. Beginning May 26 and ending June 2nd?

Q. Yes. Did you commence the week on May 26 or May 28? A. I go by the week-end. I don't recall.

Q. You commenced on Friday? A. Friday to Friday.

Q. You commenced on Saturday morning then, May 26? A. Yes, Saturday morning and ending Friday night.

3146

Q. Then what was the amount of the sales at the A. L. A. Schechter Poultry Corporation for the week commencing May 26th, Saturday, and ending June 2nd, 1934? A. 44,134 pounds.

Q. What was the inventory at the beginning of that week? A. 1121 pounds.

Q. What was the inventory at the end of that week? A. 300 pounds.

Q. That is, there were only 300 pounds of poultry left in the premises according to their records? A. That is correct.

Q. On June 2nd? A. That is right.

3147

Q. Did the books show the amount of shrinkage for that week? A. Yes, 1,492 pounds.

Q. Did you examine all the sales, all of the records of the sales of the poultry for that week? A. We made a transcript of their sales book.

Q. How many sales were made during that week? A. I believe total sales were 196.

Q. Total of 196? A. Yes, of all classes.

Q. Was there one sale of 59 baskets of poultry to the Mogen David Live Poultry Corporation? A. I could not determine baskets.

Q. What amount? A. On May 31, there was a sale of 1,449 pounds and 3,545 pounds.

3148 *Clyde N. Justice—By Govt.—Direct*

Q. That is, there were two separate sales by the A. L. A.? A. No, they were written on one sales ticket, but two different prices.

Q. But was one amount 3,545 pounds? A. Of 3,545 pounds, yes.

Q. That was a sale by the A. L. A. Schechter Poultry Corporation to the Mogen David Poultry Corporation? A. A. M. D. L. P. Company is the way it is written on the books.

Q. At what address? A. It does not give the address.

3149

Mr. Rice: Your Honor, 59 baskets of poultry at 60 pounds per basket would be about 3500 pounds.

Q. Did you examine the largest sales made during that week? A. Yes, sir, I made a record of the largest.

Q. Did you make an exact record of the 20 largest sales during that week? A. Yes.

Q. Showing the date of each such sale? A. Yes, sir.

3150 Q. And the sales ticket number? A. Yes.

Q. And the account number? A. Yes, sir.

Q. And the number of pounds sold? A. Yes, sir.

Q. Is this the record that you made from the sales books? A. It is.

Q. How many pounds of poultry were sold in the 20 largest sales that week? A. 10,856½ pounds.

Q. You were given an arbitarary figure of 12,344 pounds, were you not? A. Yes.

Q. And you were told to subtract the shrinkage?

3151

Mr. Heller: May I know who told him that? What is this testimony about?

Mr. Rice: Well, this 12,344 pounds will be shown by the exhibits now in evidence to be the amount of uninspected poultry brough into the A. L. A. Schechter premises during that week. Now, we propose to show that that 12,344 pounds of poultry was sold in its entirety excepting for 300 pounds remaining at the close of the week and except for a shrinkage of 1492 pounds.

3152

Mr. Heller: I just do not know what this has to do with an arbitrary figure.

Mr. Rice: I will state for the Court that 12,344 pounds is shown by the exhibits now in evidence to be the amount of uninspected poultry brought into the Schechter premises during the week commencing May 26, 1934. Now we propose to show a sale of that poultry. Giving the defendants the benefit of all doubt we subtracted the 300-pound inventory at the close of the week and the shrinkage of 4,292 pounds, which amounts to a balance sold of 10,552 pounds.

3153

Mr. Heller: I haven't any objection to the witness putting in evidence the exact copies that he claims that he made of our records without him characterizing the entries or anything like that.

The Court: Yes, but he can explain them. He is not to give any conclusions, but he can explain them.

Mr. Rice: We have a very large transcript of the Schechter records.

The Court: Now, what is the question?

Q. Assuming, Mr. Justice, that there were 12,344 pounds of uninspected poultry in the Schechter premises, brought in during the week of May 26, 1934, that is, the week commencing May 26, 1934, then how many of the larger sales made during that week did it take to dispose of all that poultry?

Mr. Heller: I object to the form of the question, the proper foundation not being laid.

3155 The Court: Yes, it is a matter of argument.

Mr. Rice: In order to simplify this, your Honor, I will introduce in evidence the record of the twenty largest sales during that week and then we will make our argument from that and from the other exhibits in evidence.

The Court: Do you consent to them putting in the whole record, Mr. Heller?

Mr. Heller: If this witness will testify that he personally made copies of our

3156 books, I have no objection.

Mr. Rice: But this particular record is very bulky.

The Court: I appreciate that, but you can argue from it.

Q. Now, you made a transcript of the sales shown by the sales records? A. Yes.

Q. And what else is shown in these records? A. Their purchases are shown and the sales.

Q. What else? A. Their expenses.

Q. Now, is this a correct copy of the books of the A. L. A. Schechter Corporation? A. It is.

3157

Mr. Heller: Please ask him whether he personally made all these copies, or did anyone else make any part of these records.

The Witness: Not of the sales or purchase records; they did of the cash book records.

The Court: But I am not interested in the cash books. If you want them in I will offer it.

Mr. Heller: Then offer them all in.

3158

Mr. Rice: I offer this as a correct copy of the Schechter books.

The Court: There is no objection to that, is there, Mr. Heller?

Mr. Heller: No objection, your Honor.

The Court: All right, it is received without objection.

(Marked Government's Exhibit 36 in evidence.)

Q. Now I hand you back Exhibit 36, and also a memorandum which you have prepared. A. Yes.

3159

Q. Will you tell us what were the twenty largest sales made during the week at the A. L. A. Schechter Corporation?

Mr. Heller: I object to the question as immaterial.

The Court: Overruled.

The Witness: What is that?

Q. Just give us the dates and amounts of the twenty largest sales. A. May 28th, sales ticket No. 6410——

Q. Now never mind that, just give us the dates and the amounts. A. May 5, 384 pounds; May

3160 *Clyde N. Justice—By Govt.—Direct.*

31, 474 pounds; May 31, 352 pounds; May 31, 419½ pounds; May 31, 394½ pounds;; May 31, 324½ pounds; May 31, 450½ pounds; May 31, 326 pounds; May 31, 337 pounds; May 31, 342 pounds; May 31, 338 pounds; May 31, 586 pounds; May 31, 405½ pounds; May 31, 392 pounds; May 31, 1449 pounds; May 31, 1866 pounds; May 31, 684 pounds; May 31, 335 pounds; June 1, 378½ pounds; June 1, 523 pounds.

3161 Q. Now, did you examine the records to ascertain what payments were made to Risser & Rabinowitz during this week? A. We have a record in the cash book.

Q. And will you give the dates and the amounts of such payments? A. On May 26th they gave them check No. 1381, in the sum of $1328.73.

Q. That is from the A. L. A. Schechter Corporation to Risser & Rabinowitz? A. Yes, sir.

Q. Continue. A. On May 29th they gave them check No. 1409 in the sum of $1734.58. On May 28th they gave a counter check for $2,228.43, and on June 5th they gave check No. 1432 in the sum of $827.52.

3162 Q. Now, did you examine the volume of sales for each week prior to and subsequent to the effective date of the Code? A. Yes.

Q. The Code became effective May 15th or 16th, 1934? A. Yes.

Q. Will you tell us the volume of sales made by the A. L. A. Corporation for each week from the week ending April 27th to the week ending June 16th, 1934? A. Just the pounds?

Q. Yes. A. Week ending——

Mr. Heller: The records are in evidence and they speak for themselves.

3163

The Court: Yes, they are in.

Mr. Rice: If your Honor please, it will take just three or four minutes to get that upon the record, and it is very, very difficult to make a comparison with these records.

The Court: He is giving an addition, that is all.

Q. You have made these computations? A. Yes, sir. May 27, week ending May 27——

3164

Q. Just a minute, April 27. A. April 27.

Q. Week ending April 27? A. April 27th.

Q. The total volume of sales was what? A. 29,706 pounds. Week ending May 4th, 34,204 pounds; week ending May 12th, 31,772 pounds; week ending May 18th, 48,170 pounds; week ending May 26th, 36,956 pounds; week ending June 2nd, 44,134 pounds; week ending June 9th, 33,676 pounds; week ending June 16th, 24,540 pounds.

Q. Did you make an additional copy of the volume of daily sales from May 16th to June 22nd, 1934? A. Yes, sir.

3165

Q. And is this a copy of the Schechter records I am now handing you? A. It is, yes.

Mr. Rice: I offer it in evidence.

Mr. Heller: Isn't that included in those records?

Mr. Rice: Not in this form, I do not think it is.

Mr. Heller: I do not think we ought to break it up because I am not in a position to analyze this thing; the whole record is in, that is all that is in evidence.

Mr. Rice: I am offering additional records now, your Honor.

3166

The Court: You are offering additional records?

Mr. Heller: He is offering it in a different form, he has picked out certain entries from those records and wants to offer them in his own way. I consented that the entire record go in, and it went in.

Mr. Rice: If your Honor please, I am now offering a copy of the daily volume of sales from May 16, 1934, to June 22, 1934.

3167

The Court: Isn't that all in there?

Mr. Rice: It may be distributed out at various pages, but it is very difficult to find. The witness testifies that this is a true copy of the Schechter books.

Mr. Heller: I do not think that he ought to organize the figures to suit himself; the entire record is in.

The Court: This isn't organization, this is just a statement of sales of each day.

Mr. Heller: Only for certain months; if we had it for each month I wouldn't

3168

care.

The Court: It might be convenient, I do not know, that is for the whole time in question?

Mr. Heller: It is not.

Mr. Rice: Yes, that is for the period of time as to which we charge the defendants with making false and fictitious reports. Now, this has been prepared in such a way as to compare the amount reported each day for that period of time, as shown by Government's Exhibits 29 and 30, with the amount actually sold on

3169

those days as recorded in the Schechter books.

Mr. Heller: The trouble with that is that it bears computations of the witness. That is improper. He computed it in this method, by this method here to show the differences. I do not mind him giving the figures alone, but he has computed it in a certain way that I am in no position to question him about.

The Court: If I understood you correctly this was just an addition of sales for each day?

3170

Mr. Rice: That is correct, that is the only computation he has made.

The Court: If that is all there is to it, if it is just an addition of the sales for each day, he may put that in.

Mr. Heller: He has got on here high, low, and average——

Mr. Rice: I am quite willing to strike out the price, I have no concern with prices.

Mr. Heller: There are a lot of things here.

3171

The Court: You have got the books. If he has just made an addition of the sales for each day that is one thing, but if that is a comparison then that isn't the right way, that is subject to proof.

Mr. Rice: Very well.

The Court: You have those papers, they can be compared with this; if that is simply an addition of sales for each day I would let you do it, because it will save time.

3172 *Clyde N. Justice—By Govt.—Direct*

Q. Then may I ask, Mr. Justice, whether you have added the volume reported by the A. L. A. Schechter Poultry Corporation to the Code Authority as indicated by the reports contained in Government's Exhibit 30 for the weeks ending April 30th, May 7th, May 14, May 21, May 28, June 4 and June 11, 1934? A. I copied their report, their pounds reported from May 16th to June 9th.

Q. What do you find the total amount to be?

3173 A. 106,659 pounds.

Q. 106,000 pounds reported, is that right? A. 106,659 pounds.

Q. How much poultry was actually sold during that same period of time according to the Schechter books? A. According to the books there was 151,861 pounds.

Q. In other words 50 per cent. more was sold than reported?

Mr. Heller: I object to that, first his computation is all wrong.

Mr. Rice: I withdraw the statement.

3174 Mr. Heller: His arithmetic is bad.

The Court: For convenience you can subtract one from the other, what is the difference?

Mr. Heller: Yes.

Q. How much more was sold than that which was reported? A. 45,202 pounds.

Q. Did you ascertain from the books of the A. L. A. Schechter Poultry Corporation whether any sales were made by the A. L. A. Schechter Poultry Corporation to Joseph Schechter and the Schechter Live Poultry Market, Inc. after May 16, 1934, and prior to July 26, 1934? A. As

3175

to Joe Schechter yes. The other I don't know. I don't know that other.

Q. As to Joe Schechter? A. As to Joe Schechter, yes.

Q. You have made a short summary of part of that? A. Part of that, yes.

Q. Will you tell what dates such sales were made to Joe Schechter and the amount, the price? A. On May 21, 167 pounds, $38.41; May 23, 909 pounds, $131.80; May 24, 511 pounds——

Mr. Heller: How much?

3176

A. (Continuing.) 511 pounds, $122.64; May 25, 160 pounds, $40.00; May 30, 128 pounds, $17.28.

Mr. Heller: Just take it easy. 124?

A. (Continuing.) 128 pounds, $17.28; May 31, 1,866 pounds, $298.56; June 4, 31½ pounds, $8.19; June 4 again, 259 pounds, $62.16; June 4 again, 380 pounds, $79.80; June 5, 382 pounds, $61.12; June 5 again, 202 pounds, $52.52. That is as far as I got.

Q. There were other sales recorded in their books? A. Yes.

3177

Q. But you have not summarized them? A. I have not added them.

Q. They are contained in the large exhibit, Exhibit 36? A. Yes, sir.

Mr. Rice: That is all.

Cross examination by Mr. Heller:

Q. Will you give us the total amount of poultry sold to Joseph Schechter from May 21st——

The Court: He had better have those papers back again.

3178 Q. Which ones would you like?

The Court: Give him all the papers he had. There was a pencil computation he made there of the sales to Joseph Schechter, wasn't there? I know he did not total that, did he?

The Witness: No, sir.

The Court: That is the one you want?

Mr. Heller: Yes, I want the total amount to Joseph Schechter by the——

3179 The Court: He did not total that.

(Mr. Rice hands paper to the witness.)

A. 4,955½ pounds.

Q. Is that the total from May 21st to June 5th? A. June 5th.

Q. Is that correct, that is the total amount sold to Joseph Schechter from the A. L. A. Schechter Corporation on 52nd Street? A. That is correct.

Q. You claim there were sales made from A. L. A. to Joseph Schechter? A. I say they

3180 show on their sales records as sales.

Q. Did you understand they were sales or not? A. I do not know anything except what the books show.

Q. Did you examine the price the particular merchandise was purchased at or sold for? A. There is no way of telling what particular price it was purchased for, but the price it was sold for is on the books.

Q. Do you know the price it was sold for? A. To Joe Schechter?

Q. Yes. A. Yes, sir.

Q. Did you examine the purchase books? A. Purchase book would not disclose the price at which that particular merchandise was purchased.

3181

Q. Did the record show the amount paid for poultry by the A. L. A.? A. It shows the amount it was, but not the price per pound or classified.

Q. Have you seen any bills from creditors? A. Very few invoices we could find. Just a few of them.

Q. Have you ever heard of an accommodation purchase or an accommodation sale? A. Surely.

Q. That is done in many places of business, is it not? A. Surely.

Q. As a matter of courtesy, just to show a bookkeeping entry, to keep your books straight? 3182
A. Probably so.

Q. That is correct, isn't it? A. Yes.

Q. Now, do you know the purchase price of the merchandise bought from Philadelphia concerns and sold to Mogen David? A. I don't.

Q. Did you compare the two? A. I did not.

Q. You don't remember at what price they were purchased? A. There is no records of the purchase price.

Q. You have no record? A. They didn't have any record of the purchase price.

Q. So you cannot tell what the sales price was? 3183
A. Oh, yes, I can.

Q. Will you just tell us what the sales price was to Mogen David? A. Yes. On what date?

Q. There was only one sale.

Mr. Rice: If your Honor please, I do not see how it is material what price was paid for this poultry. It is quite immaterial whether it is an accommodation sale or not.

The Court: I will let him show it.

Mr. Rice: Very well.

3184 Q. How many sales were made towards the end of May to Mogen David? Did I understand you to say that 65 baskets were sold, or something like that? A. No.

Q. 35 baskets? A. I did not say any amount of baskets.

The Court: He has told you the number of pounds and Mr. Rice said at 60 pounds a basket it would be so many pounds.

3185 Mr. Heller: Oh, I see, pardon me.

Q. They had an accounts receivable book? A. Yes.

Q. They had an accounts payable book? A. Yes.

Q. Did they not? A. Yes.

Q. Would that indicate to you the amount they owed for particular merchandise that they purchased from their creditors? A. Surely.

Q. And the accounts receivable would indicate what they owed them? A. That is right.

3186 Q. Is that right? A. Correct.

Q. So, examining the two, you could ascertain the price at which they were sold? A. The price at which merchandise was sold I can ascertain from their sales record.

Q. You could? A. Yes.

Q. And the purchase price? A. Not the purchase price.

Q. You couldn't do that? A. No.

Q. For how many days did you actually stay there at 858 East 52nd Street? A. How many days?

Q. Yes, how many days altogether? A. I was there on June 19, 20th, 21st, 22nd, 27th, 28th, 29th and July 2nd.

Q. That is a total of how many? A. Eight.

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Q. Eight full days? A. Eight days.

Q. You had somebody else with you? A. Part of the time.

Q. They gave you a place to work? A. Yes.

Q. Anything that you wanted they gave you? A. Anything that I asked for.

Q. No question about that? A. Not a bit.

Q. You were treated nice? A. Certainly.

Q. You did not examine the books at 991 Rockaway Avenue, did you? A. I did not.

Q. Only this place? A. Only this.

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Mr. Heller: That is all.

Mr. Rice: That is all. Your Honor, the Government rests.

Mr. Heller: Shall I make my motion now?

The Court: Yes, make your motion.

Mr. Heller: On behalf of all the defendants I move for the direction of a verdict of not guilty in favor of the defendants, in that there is not sufficient and/or substantial competent evidence in the record to justify in submitting any issues to the jury.

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I further move for the direction of a verdict of not guilty against all of the defendants on the ground that there is not sufficient and/or substantial and competent evidence tending to show that the commerce with which these defendants were engaged was interstate commerce within the meaning of the National Industrial Recovery Act; that on the contrary, it appears that the interstate commerce testified to by the witnesses called by the Government shows that the commerce consisted in the purchase and sale of live poultry which came in

3190 the cars in which live poultry was shipped, was unloaded by the receivers, and the transactions which these defendants were engaged in involved only live poultry after the unloading of the cars, and slaughtered poultry, in the State of New York.

I further move for the direction of a verdict of not guilty as against all of the defendants, on the first count of the indictment, which alleges in substance a

3191 conspiracy, that the defendants unlawfully, feloniously and wilfully conspired with each other to commit a large number of offenses against the National Industrial Recovery Act or the Code, and on the further ground that there is not sufficient and/or substantial evidence tending to show that the defendants were engaged in interstate commerce; in that their conduct did not affect interstate commerce in the manner alleged in the indictment; in that the transactions dealt

3192 in by the defendants, or either of them, and the acts complained of, were not violations which substantially affected interstate commerce; that the acts complained of, if affecting interstate commerce, were merely incidental; that there is no evidence to show that the defendants entered into any agreement to violate the National Industrial Recovery Act or the Code, but that, on the contrary; there was no agreement that the defendants' acts were illegal, that under no circumstances can an agreement be spelled out that had an object which

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tended to violate the National Industrial Recovery Act or the Code.

I further move to dismiss on the ground that there is no proof whatsoever that the defendants at any time intended to unlawfully, feloniously and wilfully do the acts complained of in the indictment.

I move to dismiss on the ground that the defendants have not been proven guilty beyond a reasonable doubt.

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I further move to dismiss on the ground that the acts complained of are not violations of any provisions of the Code of Fair Competition in any transaction affecting interstate or foreign commerce.

I further move to dismiss on the ground that there is not sufficient and/or substantial competent evidence in the record to justify the defendants to be called upon to interpose any defense.

May we have an argument on that?

The Court: Do you want an argument?

Mr. Heller: Yes.

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The Court: We will excuse the jury. Gentlemen, do not let anybody talk to you about the case, do not discuss it. Please go out.

(The jury retired, and argument was had upon the motion to dismiss.)

(The jury returned.)

The Court: I deny each of your motions, and I give you an exception to the denial of each motion separately.

I want to say to the jury that my denial of the motions of the defendants does not indicate any expression of opinion on my

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part as to the facts. It simply means that I believe there is a question of fact. There being a question of fact, I am obliged to submit the question of fact to you gentlemen for determination.

Mr. Heller: I would like to have until two o'clock tomorrow, and then I will expedite the testimony as rapidly as possible.

Mr. Rice: May we compromise and make it 11:30?

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The Court: I will give you until twelve o'clock tomorrow. Gentlemen of the Jury, do not let anybody talk to you about the case, do not discuss it among yourselves, and do not form any opinion until it is finally submitted to you. Be back tomorrow at twelve o'clock.

Adjourned to Thursday, October 25, 1934, at 12 noon.

3198

Brooklyn, N. Y., October 25, 1934.

Met pursuant to adjournment at 12 noon; present as before.

Mr. Heller: If your Honor pleases, I desire at this time to secure your Honor's permission to have Mr. Jacob E. Heller conduct the examination of some of the witnesses in the defendant's case. I ask this because of he fact that he has prepared the defense in some particulars.

The Court: That is perfectly all right, as long as only one attorney examines one witness.

Mr. Heller: Yes, your Honor.